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सं. 26 ]

नई दिल्ली, जून 20—जून 26, 2004, शनिवार/ज्येष्ठ 30—आषाढ़ 5, 1926

No. 26]

NEW DELHI, JUNE 20—JUNE 26, 2004, SATURDAY/JYAISTHA 30—ASADHA 5, 1926

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation \*

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 23 अप्रैल, 2004

स्टाम्प

का०आ० 1472.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा पंजाब नेशनल बैंक, नई दिल्ली को मात्र दो करोड़ चौबीस लाख रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त बैंक द्वारा जारी किए जाने वाले मात्र पांच सौ करोड़ रुपये के समग्र मूल्य के 0001 से 5000 तक विशिष्ट संख्या वाले प्रोमिसरी नोटों के स्वरूप वाले असुरक्षित गौण विमोच्य अपरिवर्तनीय बंधपत्रों पर स्टाम्प शुल्क के कारण प्रभावी है।

[सं० 12/2004-स्टाम्प/फा. सं. 33/25/2004-वि.क.]

आर. जी. छाबड़ा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 23rd April, 2004

STAMPS

S.O. 1472.—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Punjab National Bank, New Delhi to pay consolidated stamp duty of rupees two crore twenty four lakh only chargeable on account of the stamp duty on unsecured subordinated redeemable non-convertible bonds in the nature of promissory notes bearing distinctive numbers from 0001 to 5000 of rupees ten lakh each aggregating to rupees five hundred crore only, to be issued by the said Bank.

[No. 12/2004-STAMP/F. No. 33/25/2004-ST]

R. G. CHHABRA, Under Secy.

**आदेश**

नई दिल्ली, 30 अप्रैल, 2004

**स्टाम्प**

**का०आ० 1473.**—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा मै. सनमार होल्डिंग लिमिटेड, चेन्नई को मात्र आठ लाख सत्तर हजार तिरेसठ रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त कम्पनी द्वारा जारी किए जाने वाले मात्र तेईस करोड़ अड़तीस लाख तिरासी हजार तीन सौ रुपये के समग्र मूल्य के 10-10 रुपये प्रत्येक के 00000001 से 23388330 तक विशिष्ट संख्या वाले सुरक्षित अपरिवर्तनीय की ऋणपत्रों पर स्टाम्प शुल्क के कारण प्रभाय है।

[सं० 13/2004-स्टाम्प/फा. सं. 33/23/2004-बि.क.]

आर. जी. छाबड़ा, अवर सचिव

**ORDER**

New Delhi, the 30th April, 2004

**STAMPS**

**S.O. 1473.**—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits M/s. Sanmar Holdings Limited, Chennai to pay consolidated stamp duty of rupees eight lakh seventy seven thousand sixty three only chargeable on account of the stamp duty on secured non-convertible debentures bearing distinctive numbers from 00000001 to 23388330 of rupees ten each aggregating to rupees twenty three crore thirty eight lakh eighty three thousand three hundred only, to be issued by the said company.

[No. 13/2004-STAMP/F. No. 33/23/2004--ST]

R. G. CHHABRA, Under Secy.

**आदेश**

नई दिल्ली, 21 मई, 2004

**स्टाम्प**

**का०आ० 1474.**—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारतीय औद्योगिक विकास बैंक, मुम्बई को मात्र सात करोड़ तिरानबे लाख तीन हजार नौ सौ पचहत्तर रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त बैंक द्वारा जारी किए जाने वाले मात्र एक हजार पांच सौ छियासी करोड़ सात लाख पचानबे हजार रुपये के समग्र मूल्य के प्रोमिसरी नोटों के रूप में वर्णित आईडीबीआई फ्लैक्सी बंधपत्रों-21 (फिजीकल रूप में 3071549 बंधपत्र और डिमेटरलाइज्ड रूप में 100610 बंधपत्र) पर स्टाम्प शुल्क के कारण प्रभाय है।

[सं० 14/2004-स्टाम्प/फा. सं. 33/28/2004-बि.क.]

आर. जी. छाबड़ा, अवर सचिव

**ORDER**

New Delhi, the 21st May, 2004

**STAMPS**

**S.O. 1474.**—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Industrial Development Bank of India, Mumbai to pay consolidated stamp duty of rupees seven crore ninety three lakh three thousand nine hundred seventy five only chargeable on account of the stamp duty on bonds in the nature of promissory notes described as IDBI Flexibonds-21 (3071549 bonds in physical form and 100610 bonds in the dematerialized form) aggregating to rupees one thousand five hundred eighty six crore seven lakh ninety five thousand only, to be issued by the said Bank.

[No. 14/2004-STAMP/F. No. 33/28/2004--ST]

R. G. CHHABRA, Under Secy.

**आदेश**

नई दिल्ली, 26 मई, 2004

**स्टाम्प**

**का०आ० 1475.**—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और भारत सरकार, वित्त मंत्रालय, राजस्व विभाग की सं. का.आ. 1677, दिनांक, 21 जून, 2003 की अधिसूचना का अतिक्रमण करते हुए, केन्द्रीय सरकार एतद्वारा मै. अप्पू होटल लिमिटेड, चेन्नई को मात्र छह लाख चौवन हजार आठ सौ पचानबे रुपये और पचास पैसे का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त कम्पनी द्वारा जारी किए जाने वाले मात्र अठ्ठास करोड़ इकहत्तर लाख रुपये के समग्र मूल्य के एक-एक सौ रुपये प्रत्येक के एसओसीडी 000001 से एसओसीडी 1870999 तक की विशिष्ट संख्या वाले सुरक्षित वैकल्पिक रूप से परिवर्तनीय ऋणपत्रों पर स्टाम्प शुल्क के कारण प्रभाय है।

[सं० 15/2004-स्टाम्प/फा. सं. 33/21/2004-बि.क.]

आर. जी. छाबड़ा, अवर सचिव

**ORDER**

New Delhi, the 26th May, 2004

**STAMPS**

**S.O. 1475.**—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), and in supersession of the notification of the Government of India, Ministry of Finance, Department of Revenue No. S.O. 1677, dated 21st June, 2003, the Central Government hereby permits M/s. Appu Hotels Limited, Chennai to pay consolidated stamp duty of rupees six lakh fifty four thousand eight hundred ninety five and paise fifty only on account of the stamp duty on Secured Optionally Convertible Debentures bearing distinctive numbers from

S OCD-000001 to SOCD-1870999 of rupees one hundred each aggregating to rupees eighteen crore seventy one lakh only, to be issued by the said Company.

[No. 15/2004-STAMP/F. No. 33/21/2004-ST]

R. G. CHHABRA, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

आदेश

नई दिल्ली, 21 जून 2004

का० आ० 1476.—सरकार ने यह निर्णय लिया है कि श्री वी. के. चोपड़ा, अध्यक्ष एवं प्रबंध निदेशक, भारतीय लघु उद्योग विकास बैंक 9 जून, 2004 से तीन महीने की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, अपने कार्यों के साथ-साथ पंजाब एंड सिंध बैंक के अध्यक्ष एवं प्रबंध निदेशक के पद का अतिरिक्त प्रभार भी पूर्णरूपेण संभालेंगे।

[फा. सं. 20/7/99-बी.ओ. I]

रमेश चन्द, अवर सचिव

#### DEPARTMENT OF ECONOMIC AFFAIRS

(Banking Division)

#### ORDER

New Delhi, the 21st June, 2004

S.O. 1476.—Government have decided that Shri V. K. Chopra, Chairman and Managing Director, Small Industries Development Bank of India, will hold full additional charge of the post of Chairman and Managing Director, Punjab & Sind Bank, in addition to his own duties, for a further period of three months with effect from 9 June, 2004 or until further orders, whichever is earlier.

[F. No. 20/7/99-B.O.I.]

RAMESH CHAND, Under Secy.

कार्यालय आयुक्त केन्द्रीय उत्पाद शुल्क आयुक्तालय  
जयपुर-प्रथम

जयपुर, 11 जून, 2004

सं. 02-सीमा शुल्क (एन टी) 2004

#### सीमा शुल्क

का० आ० 1477.—सीमा शुल्क अधिनियम, 1962 की धारा 152 के खण्ड (ए) के तहत भारत सरकार वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की अधिसूचना संख्या 33/94 सीमा शुल्क (एन टी) दिनांक प्रथम जुलाई, 1994 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मैं, प्रवीण महाजन आयुक्त, केन्द्रीय उत्पाद शुल्क, जयपुर-प्रथम एतद्वारा, शतप्रतिशत ई.ओ.यू. स्थापित करने के उद्देश्य से राजस्थान राज्य के श्री गंगानगर जिले में स्थित 'के ब्लॉक' श्री गंगानगर को भण्डारण स्टेशन (वेयर हाउसिंग स्टेशन) घोषित करती हूँ।

[फा. सं. पंचम(16)ईओयू/12/2004(6631)]

प्रवीण महाजन, आयुक्त

#### OFFICE OF THE COMMISSIONER CENTRAL EXCISE, JAIPUR-I

Jaipur, the 11th June, 2004

No. 02-CUS (NT) 2004

#### CUSTOMS

S.O. 1477.—In exercise of the powers conferred by Notification No. 33/94-Customs (NT), dated the 1st July, 1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi, issued under clause (a) of Section 152 of Customs Act, 1962, I, Praveen Mahajan, Commissioner of Central Excise, Jaipur-I, hereby declare K. Block, Sri Ganganagar District Sri Ganganagar, in the State of Rajasthan to be warehousing station under Section 9 of the Customs Act, 1962 for the purpose of setting up 100% E.O.U.

F.No.V(16)EOU/12/2004 (6631)]

RAVEEN MAHAJAN, Commissioner

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 21 जून, 2004

का० आ० 1478.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन केन्द्रीय भंडारण निगम के निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

- |   |  |
|---|--|
| 1. केन्द्रीय भंडारण निगम,<br>क्षेत्रीय कार्यालय, महालक्ष्मी<br>चार रास्ता, उन्नति विद्यालय<br>के सामने, पालदी,<br>अहमदाबाद-380007 | 2. केन्द्रीय भंडारण निगम,<br>सेन्ट्रल वेअरहाउस,<br>जी.टी. रोड, दादरी,<br>जिला गाजियाबाद  |
| 3. केन्द्रीय भंडारण निगम,<br>बेस डिपो-लोनी,<br>गांव नोली, लोनी रेलवे<br>स्टेशन के नजदीक, लोनी,<br>जिला गाजियाबाद                  | 4. केन्द्रीय भंडारण निगम,<br>सेन्ट्रल वेअरहाउस,<br>सैक्टर-16, नोएडा,<br>जिला गौतमबुद्ध नगर-201301  |
| 5. केन्द्रीय भंडारण निगम,<br>सेन्ट्रल वेअरहाउस,<br>सफदरजंग फ्लाई ओवर के<br>नीचे, लक्ष्मीबाई नगर मार्किट<br>के नजदीक, नई दिल्ली-23 | 6. केन्द्रीय भंडारण निगम,<br>सेन्ट्रल वेअरहाउस, इंडस्ट्रियल<br>एरिया, डी.एस.एम. रोड, नई<br>अनाज मंडी के नजदीक,<br>आई.टी.ओ. कार्यालय के<br>सामने, कोटा-324007 |

7. केन्द्रीय भंडारण निगम,  
निर्माण खण्ड,  
एस.सी.ए. 15, सेक्टर, 15,  
पंचकुला-134113
8. केन्द्रीय भंडारण निगम,  
सेन्ट्रल वेअरहाउस,  
अनाज मंडी के पास,  
करनाल-132001
9. केन्द्रीय भंडारण निगम,  
सेन्ट्रल वेअरहाउस,  
सिरसा रोड,  
हिसार-125001

[सं. ई-11011/1/2001-हिन्दी]

अनिता चौधरी, संयुक्त सचिव

# MINISTRY OF CONSUMER AFFAIRS, FOOD & PUBLIC DISTRIBUTION

(Deptt. of Food and Public Distribution)

New Delhi, the 21st June, 2004

**S.O. 1478.**—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for Official Purpose of the Union) Rules, 1976 the Central Government hereby notifies the following offices of Central Warehousing Corporation under the administrative control of the Ministry of Consumer Affairs, Food & Public Distribution (Deptt. of Food & Public Distribution), where of more than 80% of staff have acquired the working knowledge of Hindi.

- |  |  |
|--|--|
| 1. Central Warehousing Corporation, Regional Office, Mahalaxmi Char Rasta, Infront of Unnati Vidyalaya, Paladi, Ahmedabad-380007 | 2. Central Warehousing Corporation Central Warehouse, G.T. Road, Dadri, Distt. Ghaziabad   |
| 3. Central Warehousing Corporation Base Depot Loni, Vill. Noli, Near Loni Railway Station, Loni, Distt. Ghaziabad                | 4. Central Warehousing Corporation Central Warehouse, Sector-16, Nodia, Distt. Gautam Budh Nagar-201301                                    |
| 5. Central Warehousing Corporation Central Warehouse, Below Safdarjang Fly Over, Near Laxmibai Ngr. Market, New Delhi-110023     | 6. Central Warehousing Corporation, Central Warehouse, Industrial Area, D.S.M. Road, Near New Grain Market in front of I.T.O., Kota-324007 |
| 7. Central Warehousing Corporation, Construction Wing, S.C.F.-15, Sector-15, Panchkula-134113                                    | 8. Central Warehousing Corporation, Central Warehouse, Near Grain Market, Karnal-132001  |
|  | 9. Central Warehousing Corporation, Central Warehouse, Sirsa Road Hissar-125001  |

[No. E-11011/1/2001-Hindi]

ANITA CHAUDHARY, Jt. Secy.

## विद्युत मंत्रालय

नई दिल्ली, 17 जून, 2004

**का० आ० 1479.**—सिगरेट एवं अन्य तम्बाकू उत्पाद (विज्ञापन पर प्रतिबंध तथा व्यापार और वाणिज्य, उत्पादन आपूर्ति एवं वितरण) अधिनियम, 2003 की धारा 25 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, विद्युत मंत्रालय के सामान्य प्रशासन के प्रभारी अवर सचिव को उक्त अधिनियम की धारा 4 के अंतर्गत कार्रवाई करने हेतु अधिकृत करती है।

[फा. सं. 18/17/2004-प्रशा. II]

वी. सी. काजला, अवर सचिव

## MINISTRY OF POWER

New Delhi, the 17th June, 2004

**S.O. 1479.**—In exercise of the powers conferred by Section 25 of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, the Central Government in the Ministry of Power hereby authorises the Under Secretary in-charge of General Administration in the Ministry of Power to act under Section 4 of the said Act.

[F. No. 18/17/2004-Admn. II]

V. C. KAJLA, Under Secy.

## वस्त्र मंत्रालय

नई दिल्ली, 11 जून, 2004

**का० आ० 1480.**—वस्त्र समिति अधिनियम, 1963 (1963 का 41) की धारा 5 ई द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार यह निर्णय करने के पश्चात् कि जनहित में ऐसा करना जरूरी है, केन्द्र सरकार की आयुध वस्त्र निर्माणियों द्वारा विनिर्मित वस्त्रों और जो वस्त्र संघ के सशस्त्र बलों के सदस्यों अथवा इस प्रकार की आयुध निर्माणियों द्वारा खपत के उद्देश्य से हों, उन पर इस अधिनियम की धारा 5ए के तहत उपकर लगाए जाने से एतद्वारा छूट प्रदान करती है।

2. यह अधिसूचना सरकारी राजपत्र में इसके प्रकाशन की तारीख से लागू होगी।

[फा. सं. 12020/4/2004-ए एंड एमएमटी (टी सी)]

जमिनी कुमार शर्मा, संयुक्त सचिव

## MINISTRY OF TEXTILES

New Delhi, the 11th June, 2004

**S.O. 1480.**—In exercise of the powers conferred by Section 5 E of the Textiles Committee Act, 1963 (41 of 1963), the Central Government, having decided that in the public interest it is necessary so to do, hereby exempt from the levy of cess under Section 5A of the Act on the textiles manufactured by the Ordnance Clothing Factories belonging to the Central Government and which are intended for consumption by the members of Armed Forces of the Union or by such ordnance factories.

2. This notification shall come into force on the date of its publication in the Official Gazette.

[F. No. 12020/4/2004-A &amp; MMT(TC)]

JAMINI KUMAR SHARMA, Jt. Secy.

**श्रम मंत्रालय**

नई दिल्ली, 24 मई, 2004

का. अ. 1481.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, गोदावरीखानी के पंचाट (संदर्भ संख्या 40/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-05-2004 को प्राप्त हुआ था।

[सं. एल-22013/1/2004-आई.आर. (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

**MINISTRY OF LABOUR**

New Delhi, the 24th May, 2004

S.O. 1481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Case No. 40/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Godavarikhani now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C.L., and their workman, which was received by the Central Government on 24-05-2004.

[No. L-22013/1/2004-IR(C-II)]

N. P. KESAVAN, Desk Officer

**ANNEXURE**

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT GODAVARIKHANI

**PRESENT :**

SMT. K. SUVARCHALA, M.A., B.L., Chairman-cum-  
Presiding Officer

Thursday, the 15th April, 2004

**INDUSTRIAL DISPUTE NO. 40 OF 2003.****BETWEEN :**

Dasari Narsaiah,  
S/o Rayamallu,  
Aged about 37 years,  
OCC : Ex-Employee,  
R/o Janagaom Village,  
Ramagundam Mandal,  
Dist. Karimnagar

....Petitioner.

**AND**

1. The Colliery Manager  
Vth Incline,  
Godavarikhani.

2. The General Manager,  
Singareni Collieries Co. Ltd.,  
Ramagundam Area-I,  
Godavarikhani.

3. The Managing Director,  
Singareni Collieries (Admn.),  
Kothagudem,  
Dist. Khammam.

.... Respondents.

This petition coming before me for final hearing in the presence of Sri S. Bhagavantha Rao, Advocate for the petitioner and of Sri D. Krishna Murthy, Advocate for the respondents and having stood over for consideration till this date, the court passed the following :—

**AWARD**

1. The petitioner filed the petition to direct the respondent to reinstate him into service with continuity of service and other attendant benefits including full back-wages.

2. The averments of the petitioner are as follows :—

The petitioner was appointed as an employee in the respondent company as Badli Filler on 12-2-1992 through Procds. No. P. R.G. 1/1/5/736 and he discharged his duties to the fullest satisfaction of his superiors. He worked 8 years in the company. He was remained absent for duties as per standing orders of Section 25, habitual absence from duty without sufficient cause. Charge was framed against him and he was removed from service. After he was removed from service, the respondent called the applications for re-appointment. The petitioner appointed for the post through procds. No. P.R.G. 1/32/A5873, dt. 30-12-2000. He attended the interview, but he could not get the job. Hence, he filed the petition for the above said relief.

3. To this, the respondent filed the counter denying the averments of the petition. The respondent company is a Govt. company incorporated under the provisions of Companies Act, 1956 for carrying out the business of Winning and Selling the coal. Coal Mining Industry is a Central subject the appropriate Government for this respondent management is Central Government. As per Sec. 7A(i) of I.D. Act, the appropriate Government may be notification in the official Gazette constitute one or more industrial Tribunals for the adjudication of Industrial Disputes relating to any matter whether specified in the 2nd schedule or 3rd schedule and for performing such other functions as may be assigned to them under this Act. The Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29-12-2000 for adjudication of Industrial Disputes and the petitioner ought to have approached the said Tribunal for the redressal of the grievance, if any, but the petitioner

conveniently avoided to file the petition before the tribunal established by the Central Government. The petition is not maintainable under law.

4. The petitioner failed to exhaust the conciliation procedure as laid down in the I.D. Act and filed the present petition before this Tribunal U/s. 2-(A)(2) of I.D. Act, 1947 as amended by A.P. Amendment act, 1987 (Act 32 of 1987) as the appropriate Government for Coal Mining Industry is the Central Government, the State amendment is not applicable to the respondent company and the petition filed by the petitioner is not maintainable under law and is liable to be dismissed in limine.

5. The Petitioner was appointed in the services of the respondent company on 20-2-1992. As the petitioner habitually abstained from attending his duties during the year 1997 and put-in only 36 musters only in that year. He was issued with a charge-sheet dt. 16—17-2-1998 under the approved standing orders of the respondent company. After completion of domestic enquiry, the services of the petitioner were terminated.

6. The attendance of the petitioner is very poor even from the beginning of his service. The petitioner has put-in attendance of 125 days in the year, 1994, 126 days in the year 1995, 68 days in the year, 1996, 36 days in the year, 1997, and 8 days in the year 1998 till his dismissal. As the petitioner has put in only 36 days of attendance and remained absent for entire remaining period unauthorisedly in the year 1997. He was issued a charge-sheet dt. 16-7-1998 under clause 25.25 of approved standing orders of the respondent company which reads as follows:—

"Habitual late attendance or habitual absence from duty without sufficient cause".

After receipt of charge-sheet, the petitioner did not submit the explanation: as such domestic enquiry was ordered duly appointed the enquiry officer and serving the enquiry notice. The petitioner attended and participated in the enquiry proceedings on 31-7-1998. During enquiry, he admitted the charges levelled against him and had not choose to cross-examine the management witnesses. The petitioner vide letter dt. 2-9-1998 advised to represent anything against the findings of enquiry duly supplying a copy of the enquiry report. The petitioner in his representation dt. 25-9-1998 requested the company to condone his absenteeism and to take him on duty. As the representation was not satisfactory, and as the petitioner inspite of the enquiry has put in only 8 days attendance in the year 1998 till his dismissal. He was dismissed from service w.c.f., 11-10-1998. The petitioner concealing all the above facts filed the petition as if he was not participated in the domestic enquiry.

7. As per Item No. 26 of the Memorandum of settlement dt. 21-2-2000 cases of workmen dismissed on

absenteeism grounds were reviewed for their re-appointment. Those workmen who were dismissed for absenteeism during the period 1-1-1997 to 31-12-1999 were called for interview including the petitioner for review by the High Power Committee. The petitioner is having a tract record of habitual absenteeism. His case was not considered for re-appointment. The allegation made against the company are baseless. Hence, the petition may be dismissed with costs.

8. On behalf of the petitioner Ex.W-1 to Ex.W-3 are marked.

On behalf of the management, Ex.M-1 to Ex.M-10 are marked.

9. Heard both sides.

10. The petitioner worked as Badli Filler in the respondent company. He was dismissed from services on the ground of absenteeism. The allegation against the petitioner is that he worked only 36 days in the year 1997. Charges were framed against the petitioner and enquiry was conducted.

11. The contention of the respondent is that Coal Industry is the Central Government enactment. Hence, Section 2-(A) (2) is not applicable to the petitioner.

12. The point for consideration is whether the case of the petitioner will fall within the purview of this Court jurisdiction.

13. The Advocate for the petitioner vehemently argued that after the amendment Section 2-(A)(2) is applicable to the workman working in Coal Industry. While arguing that he cited I.L. Naidu and Others Vs. Union of India and others reported in 2003 (2) ALT 470. His Lordship held:

"The contention regarding the non-applicability of Sec. 2-(A) (2) to an Industrial Dispute as defined in Sec. 2 (k) read with Sec. 2-(A) of the Act in relation to Hindustan Zinc. Ltd., a Government of India undertaking is wholly mis-conceived. The Industrial Disputes Act, 1947 is a legislation enacted by the parliament pursuant to the field of legislation referable to Entry 23 of List III (Concurrent List) of the Seventh schedule read with Article 246 of the Constitution of India. The Act has been amended by the Industrial Disputes Act, (A.P. Amendment Act, 1987) (Act 32 of 1987). The Act was reserved by the Governor of Andhra Pradesh on 24-4-1984, for consideration by the President and the assent of the President of India was received on 22-7-1987 which assent was published in the A. P. Gazette on 27-7-1987. In view of the provisions of Art 254 (2) of the constitution, the provisions of Section 2-(A) (2) as incorporated in the Act by the A.P. Amendment

Act 32/1987 is valid and operative. There is nothing in the phraseology of sub-section (2) of Section 2(A), which limits the applicability of its provisions to 'State Industries' was contended by the petitioner.

Within the Legislative field enumerated in Entry-22 of List-III, the legislative of the State has, subject to the provisions of the constitution, legislative powers to enact laws. There is nothing in the provisions of the Constitution or in the Act, brought to the notice of the court, which diminishes such plenitudinous legislative power including in the area of legislation for adjudication of Industrial Disputes in respect of industrial undertakings of a Federal Government. But for the enactment by the Parliament of the Industrial Disputes Act and subject to the provisions of Art. 254(2), the State Legislature was competent to enact the entirety of Industrial Disputes Act (qua the concurrent legislative field enumerated in Entry 22 of List III read with Art. 245 of the Constitution) for its operation within the territory of Andhra Pradesh. Under the provisions of Art. 254(2) and in the context of the A.P. Amendment having received the assent of President, the provisions of Section 2A(2) operate *proprio vigore* even against any provisions of the Industrial Disputes Act, 1947, enacted prior to the A.P. Amendment Act. The contention of non-applicability of Section 2A(2) to the petitioner. Company is therefore without merit or force.

In the light of the above decision, it is quite clear that the petitioner can challenge U/s. 2A(2) of the Industrial Disputes Act though he is working in the Coal Mine. Hence, the issue is decided in favour of the petitioner.

14. The charge against the petitioner is that he was frequently absenting to attend his duties. The attendance of the petitioner is as follows :—

15. The petitioner worked 125 days in the year 1994, 126 days in the year 1995, 68 in the year, 1996, 36 days in the year 1997 and 8 days in the year 1998 till his dismissal. On which, the charges were framed against the petitioner. Even though after the charges were framed against the petitioner, there is no change in the attitude of the petitioner in attending to the work. He worked only 8 days in the year 1998.

The charge-sheet is marked as Ex.M-1. The enquiry report is marked as Ex.M-4. The enquiry proceedings are marked as Ex.M-5. In the enquiry, the petitioner pleaded guilty. The petitioner also given the statement i.e., marked as Ex.M-5. In that, he admitted that he did not give the explanation to the charge-sheet. He is admitting the guilty. He further clearly stated that he was absent to duties towards the days as mentioned in the charge-sheet. Due to ill-health and family problems, he did not produce any medical certificate for his ill-health and he simply stated that he is suffering with family problems. There is no specific mention about the family problems.

16. The Advocate for the petitioner cited *M. Krishnam Raju, Asstt. Technical Officer, Commercial Electronics Group, ECIL, Hyderabad Vs. The Electronics Corporation of India Rep.*, by its Managing Director, Industrial Development Area, Hyderabad and others reported in 1995(1) ALT 744. His Lordship held :—

“Corporation providing punishment for misconducts listed therein. Remaining absent without cause is a mis-conduct. Mere absence of employee without leave at his credit not a mis-conduct. If he is able to show acceptable cause for his absence and if he has no leave to his credit extraordinary leave rules. Extraordinary leave if applied cannot be unreasonable refused. Petitioner employee could establish acceptable cause for his absence by producing medical certificates. His absence cannot therefore be mis-conduct under Service Regulations. Punishment imposed unsustainable.”

In the present case, the Petitioner neither submitted any explanation for his absence giving reasons nor submitted any medical certificate for his ill-health. Hence, the petitioner failed to given reasons for his absence. Hence, the above case is not applicable to the present case on hand.

17. The respondent advocate cited *Thimmaiah Vs. Addl. Industrial Tribunal-cum-Additional Labour Court, Hyderabad and another* reported in 2002(1) ALD 314 (DB). In which, their Lordships held :—

“Termination from service on the ground of continued absence from duty under the standing orders does not amount to retrenchment when such order of termination was made after giving notice to the employee does not liable to be challenged”.

In the present case, the petitioner never worked the required days since 1994 to 1998. Even after charge was framed against the petitioner in the year 1997, he worked only 8 days in the year, 1998. It shows the clear habitual absenteeism of the petitioner without any reasonable cause.

In the result, petition is dismissed. There shall be no order as to costs.

Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this, the 15th day of April, 2004.

Smt. K. SUVARCHALA, Chairman-cum-Presiding Officer

#### Appendix of Evidence

#### Witnesses-examined

For workman :—

—Nil—

For Management :—

—Nil—

**Exhibits****For Workman :—**

- Ex.W-1 dated 7-10-1998 Office-memo, xer. copy.  
 Ex.W-2 dated 5-10-1998 Dismissal letter, xer. copy.  
 Ex.W-3 dated 2-11-2000 Lr. issued to petitioner by  
 Supdt. of Mines, GDK.5  
 Incline, xerox copy.

**For Management :—**

- Ex.M-1 dated 16/17-2-1998 Charge-sheet.  
 Ex.M-2 dated 3-7-1998 Enquiry notice.  
 Ex.M-3 dated 30-7-1998 Appointment letter of enquiry  
 officer.  
 Ex.M-4 dated 17-6-1998 Enquiry report.  
 Ex.M-5 dated 31-7-1998 Enquiry proceedings.  
 Ex.M-6 dated 2-9-1998 Show-cause notice.  
 Ex.M-7 dated 25-9-1998 Representation of petitioner.  
 Ex.M-8 dated 5-10-1998 Dismissal letter.  
 Ex.M-9 dated 24-2-2000 Memorandum of settlement  
 dated 21-2-2000, xer. copy.  
 Ex.M-10 dated 30-10-2000 Call letter intimation, xerox  
 copy along with dismissal  
 workmen list.

नई दिल्ली, 24 मई, 2004

का. आ. 1482.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, गोदावरीखानी के पंचाट (संदर्भ संख्या 39/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2004 को प्राप्त हुआ था।

[सं. एल-22013/1/2004-आई.आर. (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 24th May, 2004

S.O. 1482.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2003) of the Industrial Tribunal-cum-Labour Court, Godavarikhani now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C.L., and their workmen, which was received by the Central Government on 24-5-2004.

[No. L-22013/1/2004-IR(C-II)]

N.P. KESAVAN, Desk Officer

**ANNEXURE**

**BEFORE THE CHAIRMAN, INDUSTRIAL  
 TRIBUNAL-CUM-LABOUR COURT  
 GODAVARIKHANI**

**PRESENT :**

Smt. K. SUVARCHALA, M.A., B.L.,  
 Chairman-cum-Presiding Officer

Thursday, the 15th April, 2004

Industrial Dispute No. 39 of 2003

**BETWEEN :**

Mupidi Bhaskar Reddy S/o. Thirupathi Reddy,  
 Aged about 45 years, OCC : Ex-Employee,  
 R/o. Markandeya Colony, Goadavarikhani,  
 Distt. Karimnagar A.P. ....Petitioner.

**AND**

1. The Colliery Manager,  
 GDK. No. 2 Incline,  
 Godavarikhani.
2. The General Manager,  
 Singareni Collieries Co. Ltd.,  
 Godavarikhani
3. The Managing Director,  
 Singareni Collieries (Admn.),  
 Co. Ltd., Kothagudem,  
 Distt. Khammam A.P. .... Respondents.

This petition coming before me for final hearing in the presence of Sri S. Bhagavantha Rao, Advocate for the petitioner and of Sri. D. Krishna Murthy, Advocate for the respondents and having stood over for consideration till this date, the court passed the following :—

**AWARD**

1. The petitioner filed the petition to direct the respondent to reinstate him into service with continuity of service and other benefits including the full back-wages.

2. The averments of the petition are as follows :—

The petitioner was appointed as Badli Filler on 7-3-1984 in VI-A Incline in Godavarikhani. He was removed from service through procds. No. P.R.G.1/32/39-99, dt. 21-9-1997 by the second respondent. The following charges are framed against the petitioner :—

1. 25.25 Habitual late attendance or habitual absence from duty without sufficient cause.
2. 25 (3 I) absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave.



The Petitioner's absence from 18-11-96 to 3-1-97 is on account of ill-health. During that period, the petitioner suffered with Typhoid. Hence, he did not attend to duties. The petitioner served the company for 12 years. The action taken by the respondent is completely illegal. He had taken treatment in Maharashtra State. Hence, he could not attend the enquiry. He lost entire confidence in the department. After losing confidence in the authorities, he filed the present petition for the above said relief.

3. To this, the respondent filed the counter denying the averments of the petition. The respondent company is a Govt. Company incorporated under the provisions of Companies Act, 1956 for carrying out the business of Mining and Selling the coal. Coal Mining Industry is a Central subject the appropriate Government for this respondent management is Central Government. As per Sec. 7A(i) of I.D. Act, the appropriate Government may by notification in the Official Gazette constitute one or more industrial tribunals for the adjudication of industrial disputes relating to any matter whether specified in the 2nd schedule or 3rd schedule and for performing such other functions as may be assigned to them under this Act. The Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29-12-2000 for adjudication of Industrial Disputes and the petitioner ought to have approached the said tribunal for the redressal of the grievance, if any, but the petitioner conveniently avoided to file the petition before the tribunal established by the Central Government. The petition is not maintainable under law.

4. The petitioner failed to exhaust the conciliation procedure as laid down in the I.D. Act and filed the present petition before this tribunal U/s. 2-(A)(2) of I.D. Act, 1947 as amended by A.P., Amendment Act, 1987 (Act No. 32 of 1987) as the appropriate Government for Coal Mining Industry is the Central Government, the State amendment is not applicable to the respondent company and the petition filed by the petitioner is not maintainable under law.

5. The petitioner was appointed as Badli Filler on 7-3-1984 and confirmed as Coal Filler w.e.f., 1-3-1993. Later, he was drafted as General Mazdoor w.e.f., 1-8-1995. He was dismissed from service w.e.f., 28-9-1997. The petitioner worked for only 148 days in the year 1994; 68 days in the year 1995; 43 days in the year 1996; and 45 days in the year 1997. The petitioner is habitually absconding from duties. As the petitioner worked for 68 days during the year 1995 he was issued with a charge-sheet dated 7-2-96 under approved standing order No. 25.25 "Habitual late attendance and habitual absence without leave or without sufficient cause".

6. The petitioner after receipt of the charge-sheet dated 7-2-96 had submitted his explanation on 16-2-1996 stating that due to the death of his wife he could not attend

duties regularly and requested to condone his misconduct of absenteeism. Enquiry was conducted. The petitioner attended the enquiry and admitted the charges levelled against him. Domestic enquiry was conducted in compliance of principles of natural justice. A copy of the enquiry report was sent by Registered post to his residence vide Ir. date 10-7-1997. The same was returned unserved by the postal authorities with an endorsement "No such house number in this area". Notice was published in Andhra Jyothi Telugu Daily on 6-8-1997 advising the petitioner to collect a copy of enquiry report from the Office of Addl. Chief Personnel Manager, R.G.I. Area and to make representation, if any, within 7 days from the date of publication. The petitioner failed to collect the enquiry report and represent his case.

7. As the charges levelled against the petitioner were proved and as his attendance in the previous years also was poor, the respondent company dismissed the petitioner from the service w.e.f., 28-9-1997. The petitioner even after participating in the enquiry absconded from duties without any sanctioned leave. It shows his habitual absenteeism from his duties. The respondent company is having full fledged hospital at Godavarikhani for providing necessary medical facilities to its workmen at free of cost as a welfare measure. Whenever required the workmen will also be referred to Super Speciality Hospitals. The petitioner instead of availing the facilities at Godavarikhani alleging that he took treatment at Maharashtra State.

8. The Case of the petitioner was reviewed for reappointment along with those who were dismissed during the period 1-1-1997 to 31-12-1999. As his case was not deserving favourable consideration on merits for reappointment, he was not given re-appointment. If the employees are habitually abstaining/absconding from their duties, the required production/planned production targets will not be achieved resulting in huge losses to the respondent company. To avoid this contingency, the respondent company incorporated the absenteeism as one of the acts of misconduct which is approved by the Central Government in accordance with the principles laid down in the Industrial Employment Act, 1946. The petitioner attended duties only for 68 days and abstained for 244 days in the year 1995. The petitioner was dismissed from the service after conducting enquiry. Hence, the petition for reinstatement into employment with back-wages with continuity of service etc., may be dismissed.

9. On behalf of the petitioner workman, Ex. W-1 and Ex. W-2 are marked.

On behalf of the management, Ex. M-1 to Ex. M-12 are marked.

10. Heard both sides.

11. The petitioner worked as Badli Filler and later worked as Coal Filler in the respondent company. He was dismissed from service on the ground of absenteeism. The allegation against the petitioner is that he worked only 68 days in the year 1995. Charges were framed against the petitioner and enquiry was conducted. Later, the petitioner was dismissed from services as the charges were proved against him.

12. The contention of the respondent is that Coal Industry is the Central Government enactment. Hence, Section 2-A(2) is not applicable to the petitioner.

13. The point for consideration is whether the case of the petitioner will fall within the purview of the Industrial Disputes Act.

14. The Advocate for the petitioner vehemently argued that after the amendment Section 2-(A) (2) is applicable to the workmen working in Coal Industry. While arguing that he cited I. L. Naidu and Others Vs. Union of India and others reported in 2003 (2) ALT 470. His Lordship held :—

“The contention regarding the non-applicability of Sec. 2-(A) (2) to an Industrial dispute as defined in Sec. 2(k) read with Sec. 2-(A) of the Act in relation to Hindustan Zinc Ltd., a Government of India Undertaking is wholly misconceived. The Industrial Disputes Act, 1947 is a legislation enacted by the parliament pursuant to the field of legislation referable to Entry-23 of List III (Concurrent List) of the seventh schedule read with Art. 246 of the Constitution of India. The Act has been amended by the Industrial Disputes Act (A. P. Amendment) Act, 1987 (Act. 32 of 1987). The Act was reserved by the Governor of Andhra Pradesh on 24-4-1984, for consideration of the President and the assent of the President of India was received on 22-7-1987 which assent was published in the A.P. Gazette on 27-7-1987. In view of the provisions of Art. 254 (2) of the constitution, the provisions of Section 2-(A) (2) as Incorporated in the Act by the A.P. Amendment Act 32/87 is valid and operative. There is nothing in the phraseology of Sub-Section (2) of Section 2-(A), which limits the applicability of its provisions to “State Industries” as contended by the petitioner. Within the legislative field enumerated in Entry -22 of List III, the legislative of the State has, subject to the provisions of the constitution, legislative powers to enact laws. There is nothing in the provisions of the Constitution or in the Act, brought to the notice of the court, which diminishes such

plenitudinous legislative power including in the area of legislative power including in the area of legislation for adjudication of industrial disputes in respect of industrial undertakings of a Federal Government. But for the enactment by the parliament of the Industrial Disputes Act and subject to the provisions of Art. 254 (2), the State Legislature was competent to enact the entirety of Industrial Disputes Act (qua the concurrent legislative field enumerated in Entry 22 of (List III read with Art. 245 of the Constitution) for its operation within the territory of Andhra Pradesh. Under the provisions of Art. 254 (2) and in the context of the A.P. Amendment having received the assent of President, the provisions of Section 2-A (2) operate proprio vigore even against any provisions of the Industrial Disputes Act, 1947, enacted prior to the A.P. Amendment Act. The contention of non-applicability of Sec. 2-A (2) to the petitioner company is therefore without merit or force”.

In the light of the above decision, it is quite clear that the petitioner can challenge U/s. 2-A (2) of the Industrial Disputes Act though he is working in the Coal Mine. Hence, the issue is decided in favour of the petitioner.

15. The petitioner was charged for continuous absence from duty. The allegation against the petitioner is that the petitioner had put-in only 68 musters during the year 1995. Charge-sheet was issued to the petitioner on 7-2-96, i.e. marked as Ex. M-1. The petitioner had given explanation to the charge-sheet, i.e., Marked as Ex. M-2. In that, he stated that his wife was died, due to that he could not attend his duties. The statement of Sri M. Sanjiva Rao, management representative shows that the petitioner worked in the year 1995 for 68 days. He was continuously absent to his duties. The petitioner also gave statement stating that due to death of his wife, he is not able to attend his duties.

While arguing that termination from service on the ground of continued absence from duty does not amount to retrenchment. The advocate for the respondent cited 2002 (1) ALD 314 (DB) in Thimmaiah Vs. Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad and another. Their Lordships held :—

“The termination of services of the petitioner was effected under a stipulation contained in the certified standing orders and therefore, that termination would not amount to retrenchment within the meaning of the term ‘retrenchment’ as defined under clause (oo) of Section 2 of the Act. If that is so, there is no scope for applying Section 25-F of the Act.

The petitioner despite receiving two memos did not bother to report for duty nor offer any explanation for his unauthorised absence. Unauthorised absence is also a form of misconduct, under the Conduct Rules. As the same time, the Employer can invoke the enabling provisions in the certified standing orders to determine the employment of an employee on the ground of unauthorised absence for a stipulated period continuously without conducting a regular departmental enquiry. The only requirement, even in such a fact situation, is that the termination of services of an employee should be brought about in a fair way and after complying with the principles of natural justice. The requirement of the principles of natural justice is fairly complied with when such order of termination was made after giving notice to the employee does not liable to be challenged”.

While contravening this point, the Advocate for the petitioner cited 1995 (1) ALT 744 in M. Krishnam Raju, Asst. Technical Officer, Commercial Electronics Group, ECIL, Hyderabad Vs. The Electronics Corporation of India rep., by its Managing Director, Industrial Development Area, Hyderabad and others. In which his lordship held :—

“Mere absence of employee without leave at his credit not a misconduct. If he is able to show acceptable cause for his absence and if he has no leave to his credit extraordinary leave without pay shall be granted as per leave rules. Extraordinary leave if applied cannot be unreasonably refused. Petitioner employee could establish acceptable cause for his absence by producing medical certificates. His absence cannot therefore be misconduct under Service Regulations. Punishment imposed unsustainable”.

As there is short attendance to duties as stated by the petitioner is due to the death of his wife. Later, he has also taken the plea that he is suffering with Typhoid and had taken treatment in Maharashtra State. Due to that reason, he could not attend to his duties. The plea taken by the petitioner that his wife died is a reasonable excuse. Due to the loss of life partner, the petitioner is in such a condition that he could not attend to his duties. Now, he challenged the dismissal order of the respondent in this court and expressed his intention to join the duty.

Therefore, I feel that one more opportunity may be given to the petitioner because he worked long time in the respondent company as Coal Filler.

In the result, petition is allowed. The order of dismissal is set-aside. The respondent Company is directed to reinstate the petitioner afresh. The petitioner shall be kept under observation for a period of one year. If he repeats the same, the respondent is at liberty to take action. There shall be no order as to costs.

Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this, the 15th day of April, 2004.

SMT. K. SUVARCHALA, Chairman-cum-  
Presiding Officer

### Appendix of Evidence

#### Witnesses-examined

For Workman :—	For Management :—
—Nil—	—Nil—

#### Exhibits

##### For Workman :—

Ex. W-1 dt. 6-2-97

Lr. issued to petitioner by Supdt., of Mines, 2 Incline.

Ex. W-2 dt. 21/24-9-97

Dismissal order.

##### For Management :—

Ex. M-1 dt. 7-2-96

Charge-sheet.

Ex. M-2 dt. 16-2-96

Reply to charge-sheet.

Ex. M-3 dt. 18-7-96

Enquiry notice.

Ex. M-4 dt. 13-8-96

Office-order.

Ex. M-5 dt.—

Enquiry proceedings.

Ex. M-6 dt. 7-10-96

Enquiry report.

Ex. M-7 dt. 8/10-7-97

Lr. issued to petitioner by G.M., RG-I.

Ex. M-8 dt. 17-7-97

Postal returned cover with ack., due.

Ex. M-9 dt. 6-8-97

Paper publication in Andhra Jyothi Business Telugu newspaper.

Ex. M-10 dt. 21/24-9-97

Dismissal letter.

Ex. M-11 dt. 21-2-2000

Memorandum of settlement, xer. copy.

Ex. M-12 dt. 24/30-10-2000

Lr. issued to Chief General Manager RG-I by G.M., personnel, xer. copy.

नई दिल्ली, 24 मई, 2004

का. आ. 1483.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. सी. सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण गोदावरी खानी के पंचाट (संदर्भ संख्या 71/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2004 को प्राप्त हुआ था।

[सं. एल-22013/1/2004-आई.आर. (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 24th May, 2004

S.O. 1483.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 71/2003) of the Industrial Tribunal-cum-Labour Court, Godavarikhani as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of S.C.C.L. and their workman, which was received by the Central Government on 24-5-2004.

[No. L-22013/1/2004-IR (C-II)]

N.P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL CUM-LABOUR COURT GODAVARIKANI

Presiding Officer : Smt. K. SUVARCHALA, M.A., B.L.  
Chairman-cum-Presiding Officer.

Thursday, the 15th day of April, 2004

INDUSTRIAL DISPUTE No. 71. OF 2003

#### BETWEEN:

Elkaturi Sailoo, S/o. Durgaiah,  
Aged about 40 yrs., Occ: Ex. Employee,  
R/o. Jangaom village,  
Mandl. Ramagundam, Dist. Karimnagar. —Petitioner.

#### AND

The General Manager,  
Singareni Collieries Co. Ltd.,  
Mandamari Area, Mandamari,  
Dist. Adilabad. —Respondent.

This petition coming before me for final hearing in the presence of Sri S. Bhagavantha Rao, Advocate for the petitioner and of Sri D. Krishna Murthy, Advocate for the respondent and having stood over for consideration till this date, the court passed the following :—

#### AWARD

1. The Petitioner filed the petition to direct the respondent to reinstate him into service with continuity of service and other attendant benefits and with full back-wages.

2. The averments of the petition are as follows :—

The petitioner was appointed as a Coal Filler in the year 1991 in 5A Incline at Godavarikhani. He discharged his duties to the fullest satisfaction of his superiors till

upto 28-5-2001. The petitioner was removed from service on 28-5-2001. The petitioner while working in the company, the respondent management transferred the petitioner to Mandamari Mine. During the working in the year 1999 in the mine at Warangal, the petitioner's health was not good and the petitioner could not attend in the year 2000 for some days. The following charge was framed against the petitioner :—

"25.25 Habitual late attendance or habitual absence from duty without sufficient cause".

The petitioner submitted detailed representation to the charge, but it was not considered properly. The respondent company terminated the petitioner from service duly conducting a false enquiry. The petitioner served the company for more than 10 years. His removal from service is illegal. Hence, the petitioner filed the petition for the above said relief.

3. To this, the respondent filed the counter denying the averments of the petitioner. The respondent further stated that the petitioner filed the application U/s. 2-A (A) (2) of the Industrial Disputes Act challenging the order of dismissal. As far as the respondent is concerned it is a mine and the appropriate Government under the Industrial Disputes Act is the Central Government.

4. The petitioner was issued charge-sheet bearing K5/2000/13CS/152, dt. 12-6-2000 for the alleged mis-conduct under company's standing orders 25(25) for habitual absence from duty without sufficient cause. The petitioner received the charge-sheet on 14-6-2000 and submitted his explanation to the charge-sheet vide reply dt. 27-7-2000. A regular enquiry was conducted. The petitioner participated in the domestic enquiry. The enquiry proceedings were explained to the petitioner in Telugu by the enquiry officer and he was given an opportunity to cross-examine the management witnesses and to produce evidence on his behalf. Two witnesses were examined on behalf of the management and the petitioner chosen not to cross-examine the management witnesses. A fair opportunity was given to the petitioner to conduct his case. The petitioner has not filed any documents during the enquiry in support of his case. The petitioner admitted the charges and pleaded guilty before the enquiry officer. The charges against him were proved. Copies of enquiry report and the enquiry proceedings were sent to the petitioner vide letter dt. 6-11-2000 to enable him to make written representation against the findings in the enquiry report within 7 days of the receipt of the report. The petitioner has received the enquiry proceedings on 8-12-2000, but he did not submit any representation. The petitioner was dismissed from service. Though the petitioner had put in 10 years of service, he is not entitled for reinstatement into service since the charges against him are proved. Hence, the petition of the petitioner may be dismissed with costs.

5. On behalf of the petitioner, Ex. W-1 and Ex. W-2 are marked.

On behalf of the respondent, Ex. M-1 to Ex. M-9 are marked.

## 6. Heard both sides.

7. The contention of the respondent is that Coal Industry is the Central Government enactment. Hence, Section 2-(A)(2) is not applicable to the petitioner.

8. The point for consideration is whether the case of the petitioner will fall within the purview of this Court jurisdiction.

9. The Advocate for the petitioner vehemently argued that after the amendment Section 2-(A) (2) is applicable to the workmen working in Coal Industry. While arguing that he cited I.L. Naidu and others Vs. Union of India and others reported in 2003 (2) ALT 470. His Lordship held :—

“The contention regarding the non-applicability of Section 2-(A) (2) to an Industrial dispute as defined in Sec. 2 (k) read with Section 2-(A) of the Act in relation to Hindustan Zink Ltd., a Government of India Undertaking is wholly misconceived. The Industrial Disputes Act, 1947 is a legislation enacted by the parliament pursuant to the filed of legislation referable to Entry 23 of List III (Concurrent List) of the Seventh Schedule read with Art. 246 of the Constitution of India. The Act has been amended by the Industrial Disputes Act (A.P. Amendment Act, 1987) (Act. 32 of 1987). The Act was reserved by the Governor of Andhra Pradesh on 24-4-1984, for consideration of the President and the assent of the President of India was received on 22-7-87 which assent was published in the A.P. Gazette on 27-7-87. In view of the provisions of Art. 254(2) of the constitution, the provisions of Section 2-(A) (2) was incorporated in the Act by the A.P. Amendment Act 32/87 is valid and operative. There is nothing in the phraseology of Sub-section (2) of Section 2-(A) which limits the applicability of its provisions to ‘State Industries’ as contended by the petitioner.

Within the legislative field enumerated in Entry 22 of List III, the legislative of the State has, subject to the provisions of the constitution, legislative powers to enact laws. There is nothing in the provisions of the constitution or in the Act, brought to the notice of the court, which diminishes such plenitudinous legislative power including in the area of legislation for adjudication of Industrial Disputes in respect of Industrial undertakings of a Federal Government. But for the enactment by the parliament of the Industrial Disputes Act and the subject to the provisions of Art. 254 (2), the State legislature was competent to enact the entirety of Industrial Disputes Act (qua the concurrent legislative field enumerated in Entry 22 of List III read with Art 245 of the Constitution for its operation within the territory of Andhra Pradesh. Under the provisions of Art 254 (2) and in the context of the A.P. Amendment having received the assent of President, the provisions of Section 2-A(2) operate proprio vigore even against any provisions of the

Industrial Disputes Act, 1947, enacted prior to the A.P. Amendment Act. The contention of non-applicability of Sect.-2-A(2) to the petitioner. Company is therefore without merit or force”

In the light of the above decision, it is quite clear that the petitioner can challenge U/s. 2-(A) (2) of the Industrial Disputes Act though he is working in the Coal Mine. Hence, the issue is decided in favour of the petitioner.

10. It is an admitted fact that the petitioner worked 10 years in the mine of the respondent company. A charge was framed against the petitioner for habitual late attendance or habitual absence from duty without sufficient cause. Charge-sheet was issued to the petitioner i.e., marked as Ex. M-1. The acknowledgement from the petitioner is marked as Ex. M-2. To this chargesheet, the petitioner had given explanation, i.e., marked as Ex.M-3. In his explanation, the petitioner stated that he is suffering with knee joint pains. He is not able to work in the mine. Domestic enquiry was conducted. The enquiry proceedings are marked as Ex. M-5. The petitioner had given his statement before the enquiry officer admitting that he was absent from duty due to ill-health. He got infirmity in his Right Leg, but he got it since his child-hood. He is not able to work in underground, as he is facing lot of difficulty. He remained absent from duty.

11. The evidence of the management representative shows that the petitioner was absent for the following days in the year, 1999 as shown below :—

Months	Days of absence
January, 1999	5th
February, 1999	5th, 12th, 17th & 18th
March, 1999	1st, 18th to 22nd
April, 1999	5th, 7th, 8th, 18th to 20th, 25th, 30th
May, 1999	6th, 9th, 11th, 12th, 14th, 16th, 19th, 21st, 23rd, 28th 30 & 31st.
June, 1999 to	1st to 21st and 24th to 30th
July, 1999	5th to 8th, 14th to 16th, 23rd and 24th
August, 1999	2nd, 3rd, and 9th to 31st
September, 1999	1st to 6th, 11th and 13th to 16th.
October, 1999	1st, 4th, 5th, and 13th to 23rd.
November, 1999	1st to 6th, 8th, 10th, 11th, 15th, 22nd, 25th, 30th
December, 1999	2nd, 3rd, 13th to 16th, 18th, 22nd to 24th, 28th 30th, 31st.

The petitioner also admitted that he was absent during those days in the year, 1999. There is no allegation that the petitioner is having a track of absence from the period of his joining. The only allegation against the petitioner is that he was absent in the year, 1999.

12. The Advocate for the respondent cited 2002 (1) ALD 314 (DB) in Thimmaiah Vs. Additional Industrial Tribunal-cum-Additional labour Court, Hyderabad and another. Their Lordships held :—

“The termination of services of the petitioner was effected under a stipulation contained in the certified standing orders and therefore, that termination would not amount to retrenchment within the meaning of term ‘retrenchment’ as defined under Clause (oo) of Section 2 of the Act. If that is so, there is no scope for applying Section 25-F of the Act.

The petitioner despite receiving two memos did not bother to report for duty nor offer any explanation for his unauthorised absence. Unauthorised absence is also a form of mis-conduct under the conduct Rules. At the same time, the Employer can invoke the enabling provisions in the certified standing orders to determine the employment of an employee on the ground of unauthorised absence for a stipulated period continuously without conducting a regular departmental enquiry. The only requirement, even in such a fact situation, is that the termination of services of an employees should be brought in a fair way and after complying with the principles of natural justice. The requirement of the principles of natural justice is fairly complied with when such order of termination was made after giving notice to the employee does not liable to be challenged”.

While contravening this point, the advocate for the petitioner cited 1995 (1) ALT 744 in M. Krishnam Raju, Asst. Technical Officer, Commercial Electronics Group, ECIL, Hyderabad Vs. The Electronics Corporation of India rap. by its Managing Director, Industrial Development Area, Hyderabad and others. In which his lordship held :—

“Mere absence of employee without leave at his credit not a mis-conduct. If he is able to show acceptable cause for his absence and if he has no leave to his credit extraordinary leave without pay shall be granted as per leave rules. Extraordinary leave if applied cannot be unreasonable refused. Petitioner employee could establish acceptable cause for his absence by producing medical certificates. His absence cannot therefore be mis-conduct under Service Regulations. Punishment imposed unsustainable”.

As the petitioner had shown the cause for his absence, i.e., due to joint pains, he could not able to attend his duties. Therefore, his case is considered.

In the result, petition is allowed. The order of dismissal is set-aside. The respondent company is directed

to reinstate the petitioner afresh. He shall be kept under observation for a period of one year. There shall be no order as to costs.

Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this, the 15th day of April, 2004.

Smt. K. SUVARCHALA, Chairman-cum-  
Presiding Officer

#### Appendix of Evidence

##### Witnesses-examined

For workman :

—Nil—

For Management :

—Nil—

##### Exhibits

For workman :

Ex. W-1 dt. 20-3-91

Ex. W-2 dt. 17-5-2001

office-order, xcr. copy.

Dismissal letter,  
xcr. copy.

For Management :

Ex. M-1 dt. 10/12-6-2000

Ex. M-2 dt. 14-6-2000

Ex. M-3 dt. 27-7-2000

Ex. M-4 dt. 20-7-2000

Ex. M-5 dt. 27-7-2000

Ex. M-6 dt. 27-9-2000

Ex. M-7 dt. 6-11-2000

Ex. M-8 dt. —

Ex. M-9 dt. 17-5-2001

Charge-sheet.

Ack., to charge-sheet.

Explanation to the  
charge-sheet.

Enquiry notice.

Enquiry proceedings.

Enquiry report.

Show-cause notice.

Ack., to show-cause  
notice.

Dismissal order, xcr.  
copy.

नई दिल्ली, 24 मई, 2004

का. आ. 1484.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. सी. सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गोदावरीखानी (संदर्भ संख्या 98/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-05-2004 को प्राप्त हुआ था।

[सं. एल-22013/1/2004-आई.आर. (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 24th May, 2004

S.O. 1484.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 98/2003) of the Industrial Tribunal-cum-Labour Court, Godavarikhani as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of S.C.C.L. and their workman, which was received by the Central Government on 24-05-2004.

[No. L-22013/1/2004-IR (C-II)]

N.P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT GODAVARIKHANI

Present :

Smt. K. SUVARCHALA, M.A., B.L.

Chairman-cum-Presiding Officer.

Thursday, the 15th day of April, 2004

INDUSTRIAL DISPUTE No. 98 OF 2003

BETWEEN:

Gundaboina Beeraiah, S/o. Mallaiah,  
Aged about 35 years, R/o. Jangaom,  
Ramagundam mandal, Dist. Karimnagar.

—Petitioner.

AND

1. The Colliery Manager,  
VIB Incline, Godavarikhani.

2. The General Manager,  
RG. I., Godavarikhani.

3. The Managing Director,  
Singareni Collieries (Admn.),  
Kothagudem, Dist. Khammam.

—Respondents.

This petition coming before me for final hearing in the presence of Sri S. Bhagavantha Rao, Advocate for the petitioner and of Sri D. Krishna Murthy, Advocate for the respondents and having stood over for consideration till this date, the court passed the following :—

#### AWARD

1. The petitioner filed the petition to direct the respondent No. 2 and 3 to reinstate the petitioner into service with continuity and other attendant benefits and with full back-wages.

2. The averments of the petition are as follows :—

The petitioner was appointed as Badli Filler on 1-1-1992 by the respondent No. 2. His father is an employee in the mills and taken voluntary retirement. After voluntary retirement of his father, he was provided the employment in Vth Incline, Godavarikhani. He was promoted as Coal Filler in the year, 1995. His services are governed by various regulations of standing orders of the company. He fell sick and could not attend in the year 1999. The following charge was framed :—

25.25 : Habitual late attendance or habitual absence from duty without sufficient cause.

The petitioner was promoted in the year 1995 as Coal Filler and the petitioner underwent probation for six months and his services were regularised by the respondent No. 2 through procds. Ref. No. AGT/I&3/96/11-A/325, dt. 28-8-1996. The petitioner as put-in 10 years of service. The removal is arbitrary, illegal and against the principles of natural justice.

3. The petitioner underwent treatment in private and as well as in Singareni Collieries, but the sick certificates produced by him were not considered. Hence, he filed the petition for the above said relief.

4. To this, the respondent filed the counter denying the averments of the petition. The respondent further stated that the respondent company is a Govt. company incorporated under the provisions of Companies Act, 1956 for carrying out the business of Winning and Selling the Coal. Coal Mining Industry is a Central Subject the appropriate Government for this respondent management is Central Government. As per Section 7A(1) of I.D. Act, the appropriate Government may by notification in the Official Gazette constitute one or more industrial tribunals for the adjudication of industrial disputes relating to any matter whether specified in the 2nd schedule or 3rd schedule and for performing such other functions as may be assigned to them under this Act. The Central Government established from 29-12-2000 for adjudication of Industrial Disputes and the petitioner ought to have approached the said tribunal for the redressal of the grievance, if any, but the petitioner conveniently avoided to file the petition before the tribunal established by the Central Government. The petition is not maintainable under law.

5. The petitioner failed to exhaust the conciliation procedure as laid down in the I.D. Act, and filed the present petition before this Tribunal U/s 2-(A)(2) of I.D. Act, 1947 as amended by A.P. Amendment Act, 1987 (Act 32 of 1987) as the appropriate Government for Coal Mining Industry is the Central Government, the State amendment is not applicable to the respondent company and the petition filed by the petitioner is not maintainable under law.

6. The petitioner was appointed as Badli Filler on 30-8-1992 and confirmed as Coal Filler on 1-1-1995. The petitioner attended only for 29 days in the year 1999. Charge-sheet was issued on 14-5-2000 for absents from his duties without any leave or sufficient cause under clause 25.25 of the company's approval standing orders. As the explanation given by the petitioner dt. 26-5-2000 was not satisfactory, domestic enquiry was ordered. The petitioner was served with the notices dt. 4-6-2000, 25-6-2000 and 18-7-2000 directing him to attend the enquiry. He was finally served with the notice dated 1-8-2000 to attend the enquiry on 7-8-2000. The petitioner in his letter dt. 7-8-2000 requested the enquiry officer to translate and explain the enquiry proceedings in Telugu language which is stated to be sufficient for him. The enquiry proceedings were explained to the petitioner in Telugu and he stated that he has no objection to record the proceedings in English. The petitioner wanted to take the assistance of one Sri B. Mahender Reddy, overman, GDK-1 Incline, as observer. The petitioner alongwith his observer signed on the proceedings in English. The petitioner long with observer fully participated in the entire enquiry proceedings and the petitioner did not want to cross examine the management witnesses during the enquiry. The petitioner admitted that he remained absent for his duties without leave, sick

permission, or information during the year 1999 due to chest pain, and he did not produce any document to prove his illness.

7. The charges levelled against the petitioner are proved. During the year 1996, he attended for 111 days, in the year 1997 for 151 days, in the year 1998, he attended for 89 days, in the year 1999, he attended for 29 days, in the year 2000, he attended only 4 days. As his performance and attendance in the previous years also are poor and the charges levelled against the petitioner are proved. There are no other extenuating circumstances warranting less punishment than of termination from service. Hence the petitioner was terminated vide office order dt. 25-12-2000. w.e.f. 29-12-2000. Hence, the petition may be dismissed with costs.

8. On behalf of the petitioner, Ex. W-1 to Ex. W-10 are marked.

On behalf of the respondent, Ex. M-1 to Ex. M-11 are marked.

9. Heard both sides.

10. The contention of the respondent is that Coal Industry is the Central Government enactment. Hence, Section 2-(A)(2) is not applicable to the petitioner.

11. The point for consideration is whether the case of the petitioner will fall within the purview of this court jurisdiction.

12. The Advocate for the petitioner vehemently argued that after the amendment Section 2-(A)(2) is applicable to the workman working in Coal Industry. While arguing that he cited I.L. Nadu and others Vs. Union of India and others reported in 2003 (2) ALT 470. His Lordship held :—

“The contention regarding the non-applicability of Sec. 2-(A) (2) to an Industrial Dispute as defined in Sec. 2 (k) read with Sec. 2 (A) of the Act in relation to Hindustan Zinc Ltd., a Government of India Undertaking is wholly mis-conceived. The Industrial Disputes Act, 1947 is a legislation enacted by the parliament pursuant to the field of legislation referable to Entry-23 of List III (Concurrent List) of the seventh schedule read with Art. 246 of the Constitution of India. The Act has been amended by the Industrial Disputes Act (A.P. Amendment Act, 1987) (Act. 32 of 1987). The Act was reserved by the Governor of Andhra Pradesh on 24-4-1984, for consideration of the President and the assent of the President of India was received on 22-7-1987 which assent was published in the A.P. Gazette on 27-7-1987. In view of the provision of Art. 254 (2) of the constitution, the provisions of Section 2-A(2) as incorporated in the Act by the A.P. Amendment Act 32/87 is valid and operative. There is nothing in the phraseology of Sub Section (2) of Section (2-A) which limits the applicability of its provisions to ‘State Industries’ as contended by the petitioner.

Within the legislative field enumerated in Entry-22 of List III, the legislative of the State, has, subject to the provisions of the constitution, legislative powers to enact laws. There is nothing in the provisions of the constitution or in the Act, brought to the notice of the court, which diminishes such plenitudinous legislative power for adjudication of Industrial disputes in respect of Industrial undertakings of a Federal Government. But for the enactment by the parliament of the Industrial Disputes Act and subject to the provisions of Art. 254(2), the State Legislature was competent to enact the entirety of Industrial Disputes Act (qua the concurrent legislative field enumerated in Entry 22 of List III read with Art. 245 of the Constitution) for its operation within the territory of Andhra Pradesh. Under the provisions of Art. 254(2) and in the context of the A. P. Amendment having received the assent of President, the provisions of Section 2-A(2) operate proprio vigore even against any provisions of the Industrial Disputes Act, 1947, enacted prior to the A.P. Amendment Act. The contention of non-applicability of Sec. 2-A(2) to the petitioner. Company is therefore without merit or force.

In the light of the above decision, it is quite clear that the petitioner can challenge U/s 2-A(2) of the Industrial Disputes Act though he is working in the Coal Mine. Hence, the issue is decided in favour of the petitioner.

13. It is admitted fact that the petitioner worked as Coal Filler in the respondent company. Charge was framed against him for his habitual late attendance or habitual absence from duty without any sufficient cause. The allegation against the petitioner is that he worked only 29 days in the year, 1999 and 4 days in the year, 2000.

14. The charge-sheet is marked as Ex. M-1. The petitioner had given reply to the charge-sheet i.e. marked as Ex. M-2. In his explanation, the petitioner stated that in the year, he suffered with Abdomen Ulcer, Hepatitis and he was taking treatment in the Area Hospital and private hospitals. In support of his version, he filed fit receipts issued by the Medical Officer, Area Hospital, they are marked as Ex. W-8. Medical certificate issued by Civil Assistant Surgeon, P.H.C. Vemanpally, Adilabad Dist. is marked as Ex. W-9.

The petitioner had produced the sick certificates showing that he suffered Chest pain, Abdominal pain, Fever and various other diseases.

15. The Advocate for the respondent cited 2002 (1) ALD 314 (DB) in Thimmaiah Vs. Additional Industrial Tribunal-cum-Labour Court, Hyderabad and another. Their Lordships held :—

“The termination of services of the petitioner was effected under a stipulation contained in



the certified standing orders and therefore, that termination would not amount to retrenchment within the meaning of the term 'retrenchment' as defined under clause (oo) of Section 2 of the Act. If that is so, there is no scope for applying Section 25-F of the Act.

The petitioner despite receiving two memos did not bother to report for duty nor offer any explanation for his unauthorised absence. Unauthorised absence is also a form of misconduct under the Conduct Rules. At the same time, the Employer can invoke the enabling provisions in the certified standing orders to determine the employment of an employee on the ground of unauthorised absence for a stipulated period continuously without conducting a regular departmental enquiry. The only requirement, even in such a fact situation, is that the termination of services of an employee should be brought about in a fair way and after complying with the principles of natural justice. The requirement of the principles of natural justice is fairly complied with when such order of termination was made after giving notice to the employee does not liable to be challenged."

While contravening this point, the Advocate for the petitioner cited 1995(1) in M. Krishnan Raju, Asst. Technical Officer, Commercial Electronics Group, ECIL, Hyderabad Vs. The Electronics Corporation of India rep. by its Managing Director, Industrial Development Area, Hyderabad and others. In which, his lordships held :—

"Mere absence of employee without leave at his credit not a misconduct. If he is able to show acceptable cause for his absence and if he has no leave to his credit, Extraordinary leave without pay shall be granted as per leave rules. Extraordinary leave if applied cannot be unreasonably refused. Petitioner employee could establish acceptable cause for his absence by producing medical certificates. His absence cannot therefore be misconduct under Service Regulations. Punishment imposed unsustainable."

The petitioner absented to duties in the year 1999. The petitioner had shown that he suffered with ill-health. In support of his version, he had filed sick certificates showing that he suffered Chest pain, Abdominal pain, Fever and other various diseases.

In the result, petition is allowed. the order of dismissal is set aside. The respondent company is directed to reinstate the petitioner on production of fit certificate that he is fit to work. The petitioner shall be kept under observation for a period of one year. If he repeats the same, the respondent is at liberty to take action. There shall be no order as to costs.

Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this, the 15th day of April, 2004.

SMT. K. SUVARCHALA, Chairman-cum-  
Presiding Officer

#### Appendix of Evidence

##### Witnesses-examined

For Workman :— : NIL

For Management :— : NIL

#### EXHIBITS

For Workman :—

- |          |                |  |
|----------|----------------|--|
| Ex. W-1  | dt. 26/27-8-92 | Office order.  |
| Ex. W-2  | dt. 24-12-95   | Office order.  |
| Ex. W-3  | dt. 28-8-96    | Office order.  |
| Ex. W-4  | dt. 14-5-2000  | Charge-sheet.  |
| Ex. W-5  | dt. 25-12-2000 | Office order.  |
| Ex. W-6  | dt. 15-10-2000 | Show-cause notice.   |
| Ex. W-7  | dt. 21-12-1999 | 4 Nos. fit receipts issued by Medical Officer/Supdt. of Area Hospital and other.   |
| Ex. W-8  | dt. 7-2-2000   | 4 Nos. fit receipts issued by Medical Officer/Supdt. of Area Hospital and other.   |
| Ex. W-9  | dt. 5-12-99    | Medical certificate issued by Civil Asst. Surgeon, PHC, Vemanpally, Adilabad Dist. |
| Ex. W-10 | dt. 17-5-99    | Fit certificate issued by Medical Superintendent, Area Hospital, R.G-I.            |

For Management :—

- |          |                           |                               |
|----------|---------------------------|-------------------------------|
| Ex. M-1  | dt. 14-5-2000             | Charge-sheet.                 |
| Ex. M-2  | dt. 26-5-2000             | Reply to Charge-sheet.        |
| Ex. M-3  | dt. 1-6-99                | Office memo.                  |
| Ex. M-4  | dt. 4/25-6-2000           | Enquiry notices.              |
| Ex. M-5  | dt. 18-7-2001<br>1-8-2000 | -do-                          |
| Ex. M-6  | dt. 7-8-2000              | Application of petitioner.    |
| Ex. M-7  | dt. 12-6-2000             | Domestic enquiry proceedings. |
| Ex. M-8  | dt. 8-8-2000              | Enquiry report.               |
| Ex. M-9  | dt. 15-10-2000            | Show-cause notice.            |
| Ex. M-10 | dt. 25-12-2000            | Office order.                 |
| Ex. M-11 | dt. 29-12-2000            | Office Memo.                  |

नई दिल्ली, 31 मई, 2004

का. आ. १४८५.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. सी. सी. एल. प्रबंधन के संबंध निपोककों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल. सी. आई. डी. संख्या 162/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2004 को प्राप्त हुआ था।

[सं. एल-22013/1/2004-आई.आर. (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 31st May, 2004

**S.O. 1485.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID No. 162/2002) of the Central Government Industrial Tribunal/Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of S.C.C.L. and their workman, which was received by the Central Government on 28-5-2004.

[No. L-22013/1/2004-IR (C-II)]

N.P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT AT HYDERABAD

#### PRESENT:

SHRI E. ISMAIL, B.Sc. LLB., Presiding officer

Dated, the 12th day of April, 2004

INDUSTRIAL DISPUTE No. L CID 162. OF 2002

#### BETWEEN:—

Sri Butti Lingaiah,  
S/o. B. Mallaiah,  
H.No. 14-5-193,  
Parashuram Nagar,  
Godavarikhani,  
Karimnagar Distt.

..... Petitioner

#### AND

The General Manager,  
M/s. Singareni Collieries Co. Ltd.,  
Ramagundam Area II,  
Godavarikhani,  
Karimnagar District.

..... Respondent

#### APPEARANCES:

For the Petitioner : M/s. D.V. Siva Prasad &  
N. Vinesh Raj,  
Advocates

For the Resondent : M/s. Srinivasa Murthy,  
V. Umadevi & C. Vijaya  
Shekar Reddy,  
Advocates

#### AWARD

This is a case taken under Sec. 2 A(2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated

3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are : That the Petitioner was appointed in the Respondent company as coal filler in 1979. Subsequently promoted as trammer. The Petitioner has to supply trammer (trolley) to the coal fillers. But on 14-11-2000 in second shift he was asked to perform the job of assistant Chainman to issue cola to lorries from bunker at GDK. No. 8 incline by his superiors. He is not a regular assistant Chainman. He is not well accustomed with the procedure relating to the said job. The Petitioner as an assistant Chainman has to follow the instructions of the Chainman. The Petitioner has worked as per the instructions of the Chainman on the said day also. It is submitted that to be surprise of the Petitioner he received a charge-sheet dated 24-11-2000 issued by the Superintendent of Mines, GDK No. 8 incline alleging that on 14-4-2001 coal was issued to lorry No. ABK 569 and was supposed to go to 'B' power house and that the same was not entered in the lorry trip sheet, which amounts to misconduct under Company Standing Orders, 25(1). That the Petitioner has submitted explanation categorically denying the charges and also that he has made an entry in the book concerned and also further stated that the challans was issued by the shift Chainman Mr. Iriki Laxmaiah and not by the Petitioner. Ignoring the said explanation the Management proceeded with the enquiry. Further there was an attempt on his life while he was on duty on 18-11-2000 with regard to the same case and this was admitted by the witness in the enquiry. The enquiry was conducted in a biased and partial manner. Hence, the Petitioner may be directed to be reinstated with full back wages, continuity of service etc.

3. A counter was filed stating that the Petition is not maintainable under Sec. 2A(2) of the I.D. Act. the Hon'ble Supreme Court in Sundareshan and other Vs. M.D., Bharat Gold Mines Limited reported in 2001 (3) SCALE at page 534, while dealing with charges of theft and fraud in Departmental enquiry, observed as under :

"... The Central Industrial Tribunal unjustifiably interfered with the punishment imposed by the Authority. Misconduct that was found was serious in nature. Sec. 11-A of the I.D. Act, does not give any unlimited power to the Tribunal to interfere in such cases. It can interfere only when the order of discharge or dismissal was not justified. Once there is a justification, particularly, in the case of Theft or Fraud, the Tribunal ought to have refrained itself from disturbing the said order. The High Court rightly observed that taking "any lenient view in the matter and showing sympathy to delinquent workman; who are found to be guilty of theft and fraud would amount to misplacing the sympathies". That he has connived with Sri Iriki Laxmaiah and committed fraud and caused theft of office property causing a monetary loss of Rs. 11,000/-. A domestic enquiry

was conducted complying with principles of natural justice and the charges having been proved the Petitioner and Laxmaiah were dismissed from service. Whenever there was shortage of Chainman the Petitioner being deployed as assistant Chainman since 1998 as such he is well acquainted with the duties of assistant Chainman. The duties of the Chainman and Assistant Chainman are as follows :

1. To issue coal to lorries from bunkers.
2. To record the trips issued to lorries with time and vehicle number, in the register and the Lorry Trip sheet provided for that purpose.
3. To sign the coal transport challans after issuing the coal and record time.
4. To report to the Manway Clerk and Under Manager, the total coal transportation/dumped from the mine at the shift ending.
5. To report to the Engineer about any breakdowns/problems at chutes of surface bunkers.

4. It is submitted that the Petitioner along with Iriki Laxmaiah, on 14-11-2000 at 4.00 P.M., while discharging their duties as Assistant Chainman and Chainman in 2nd shift, have issued coal to ABK-569 lorry from bunker at GDK 8 incline to transport coal to "B" power house and the same has been recorded in the register and the coal transport challans. The said lorry after delivering the coal returned to the mine for 2nd trip. The Petitioner and the Chainman again issued coal to ABK-569 to transport the same to "B" Power House at 8.20 PM. Though, they have recorded the said trip in the register maintained but with a malafide intention, they have not entered the said trip in the lorry trip sheet (Transport challans). Thereby, the coal lorry has not routed through the weigh bridge for weighing to coal, at GDK 1 CSP and in turn it did not reach its destination i.e., "B" Power House, which resulted in loss of revenue to the Company to the tune of Rs. 11,000. That the said lorry was diverted in an unauthorized route towards Penchikalpet village. There it was involved in an accident which resulted in damage of compound wall and the bath room of Sri Kummury Venkaty. The said lorry was detained and a complain was lodged against the Petitioner and Iriki Laxmaiah for committing theft of coal with II-Twon Police Station, Godavarikhani which was registered as Crime No. 142/2000 dated 26-11-2000 and the said case is pending on the file of Hon'ble Judicial First Class Magistrate at Manthani.

5. That the Petitioner was deployed to assist Iriki Laxmaiah and both are responsible for not recording the coal trip sheet challans. The theft of coal took place with the collusion of Petitioner, Iriki Laxmaiah, and the lorry driver. They have not entered the trip in the transport challans and allowed the lorry to the original destination. The Petitioner and Iriki Laxmaiah were issued charge sheets. A domestic enquiry was held as per principles of natural justice and they were dismissed.

6. It was conceded on 15-10-2003 that the domestic enquiry was validly conducted and arguments were heard on 9-3-2004 under Sec. 11A of the I.D. Act.

7. It is argued by the Learned Counsel for the Petitioner that after all the amount involved is only Rs. 11,000/- and he is only an Assistant Chainman and actually it is the responsibility of the Chainman. That even otherwise punishment given is very disproportionate. As he has been working from 1979, some sympathy should have been shown to him. He also relied on 2000(3) AIR SCW page 6635 wherein their Lordships were dealing with a case where reinstatement with back wages was issued. There in that case the public servant was dismissed for conviction in a criminal case but was reinstated on subsequent acquittal. So he submitted that the criminal case is still pending and how is it possible to dismiss the Petitioner by an enquiry? Therefore, he prays that he may be reinstated.

8. It is argued by the Learned Counsel for the Respondent that once having conceded the enquiry is validly conducted it is not fit to argue that mercy be shown. Because as already held by various courts, when the Petitioner was held guilty and committed fraud of the company property worth of Rs. 11,000 in collusion with Sri Iriki Laxmaiah no mercy may be shown to him.

9. It may be seen that in several cases the Hon'ble Supreme Court has held that cases of misappropriation, fraud and theft need not be condoned. Hence, I am afraid that there is no case for reinstatement. However, as he has been dismissed from service and put in service from 1979, I am of the opinion that a sum of Rs. 10,000 shall be paid to the Petitioner which will meet the ends of justice. He should be paid within 30 days from the publication of this award failing which he will be entitled to received 6% p.a. interest after 30 days of publication this award.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant  
Transcribed by her, corrected and pronounced by me on  
this the 12th day of April, 2004.

Sd/-

E. ISMAIL, Presiding Officer

#### Appendix of evidence

Witnesses examined for the Petitioner	: Witnesses examined for the Respondent
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NIL

: NIL

#### Documents marked for the Petitioner

NIL

#### Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2004

का.आ. 1486.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, डायरेक्टोरेट आफ राइस रिसर्च प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या एल. सी. आई. डी. संख्या 221/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2004 को प्राप्त हुआ था।

[सं. एल०-22013/1/2004-आई.आर. (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 31st May, 2004

S.O. 1486.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. LCID No. 221/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Directorate of Rice Research and their workman, which was received by the Central Government on 28-5-2004.

[No. L-22013/1/2004-IR(C-II)]

N. P. KESAVAN, Desk Officer

## ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT  
AT HYDERABAD**

Present : Shri E. Ismail, B. Sc., LLB., Presiding Officer

Dated the 12th day of April, 2004

INDUSTRIAL DISPUTE L.C.L.D. No. 221/2002

## Between :

Sri M. Balraj,  
S/o M. Yadaiah,  
H. No. 4-25, Kismatpura,  
Rajendranagar Mandal,  
Ranga Reddy District.

..... Petitioner

AND

1. The Project Director,  
Directorate of Rice Research,  
Rajendranagar, Ranga Reddy District.  
Hyderabad-500030.

2. The Director General of Indian  
Council of Agricultural Research  
(ICAR), Krishi Bhavan,  
New Delhi-110001.

..... Respondents

## Appearances :

For the Petitioner : Sri K. Ravinder Goud,  
Advocate

For the Respondent : Sri N. Parameswara Reddy,  
Advocate

## AWARD

This is a case taken under Section 2A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as averred in the petition are: That the Petitioner was appointed as a skilled assistant in Farm Section in Directorate of Rice Research, Rajendranagar, Ranga Reddy District, Hyderabad w.e.f. 8-1-96 under the control of Respondent No. 1. The Respondent No. 1 is under control of Respondent No. 2. That the services of the Petitioner were orally terminated on 31-5-2000 without assigning any reason. Petitioner's initial salary is Rs. 800/- per month. It was enhanced to Rs. 1500 per month. After termination the Petitioner filed I.D. 64/2001 in the file of Labour Court-I, seeking reinstatement. The Respondent filed a counter that it will come under the jurisdiction of Central Government Industrial Tribunal but did not dispute the employment of the Petitioner with them. That the Petitioner filed a memo dated 16-9-2000 withdrawing the case and filed before this Court. That the Petitioner's oral termination is illegal, violation of principles of natural justice. He was not issued with the notice or one month wages.

3. That other related farms which are under the control of 2nd Respondent herein have regularized the services of its employees after issuance of various circulars by the 2nd Respondent. The other related National Academy of Agricultural Research Management, Rajendranagar, Hyderabad have granted temporary status to 53 workers and also have entered into 12(3) Agreement on 30-4-2001 for regularizing the services of 29 workers from temporary status to permanent status. That in place of the Petitioner some new persons are appointed who are juniors to Petitioner's which is violative of Sec. 25(G) and (H) of the I.D. Act. The termination of the Petitioner is for the purpose of avoiding regularization of his services. Along with other institutes' employees which are under the control of 2nd Respondent. Hence, the oral termination order dated 1-6-2000 may be set aside and grant relief of reinstatement of the Petitioner into service with full back wages, continuity of service and with all attendant benefits.

4. A counter was filed stating that in I.D. 35/98 filed by Sri T. Sriramulu Vs. Central Research Institute for Dryland Agriculture, Santoshnagar, Hyderabad on 30-12-98. The Respondent in that case, CRIDA, Hyderabad is sister organization of the Respondent herein and the Respondent submits that the petition may not be maintainable for want of jurisdiction as the Hon'ble Central Administrative Tribunal is the appropriate authority. A copy of the order in I.D. No. 35/98 is filed herewith. The Project Director, Directorate of Rice Research is one of the components of ICAR and has no characteristics of industry. Therefore, the skilled assistant under ICAR or any of its components are not the workman as defined under Section 2(A) of the I.D. Act. Therefore, the court lacks jurisdiction and only the Hon'ble Central Administrative Tribunal has got jurisdiction. The

Petitioner was not appointed against any sanctioned post and he was engaged only on need basis and given consolidated payment for the work done. He was never in continuous work as alleged by him in the petition. It is submitted that for the purpose of carrying out agricultural operation related to field, glass house and laboratory etc. and for other supporting units skilled labourers on contract basis were engaged in the past depending on need based requirement of research scheme taken up from time to time. That due to budget constraints and lack of adequate work with effect from 1-6-2000 this directorate has discontinued the engagement of all contractual workers of this category including the Petitioner. That the Petitioner was neither a daily rated casual worker on muster rolls in order to work against specific sanctioned post. Petitioner is not entitled for any notice for termination. That in I.D. 35/98 a memo was filed for filing it before the Hon'ble Central Administrative Tribunal. Hence, the Hon'ble Central Administrative Tribunal has got jurisdiction and the petition may be dismissed.

5. The Petitioner deposed as WW1 and stated the facts as mentioned in the petition. In the cross-examination he deposed that he worked from 8-1-96 to May, 2000. There is no appointment order. He has not applied for any job. There was no call letter from the office. His salary was paid monthly in cash. He used to sign in the wage register whenever he used to go for work. In the beginning Mrs. Rama used to pay his salary and at the time of his retrenchment Mohd. Hussain used to pay his salary. One Mr. A.P.K. Reddy, Incharge Director told him orally that from 1-6-2000 onwards he need not come for duty. Throughout year the Management paid him salary without bread. When the G.O. was issued he was not in service. It is true that the Respondent never asked him to do this work. He denied that he worked under a contractor. He denied Ex. W1 to W10 circulars, settlements are not applicable to him.

6. The Assistant Administrative Officer/Drawing & Disbursing Officer with the Respondent No. 1 deposed as MW1. He deposed that the Petitioner was initially engaged in January, 1996 on contract basis on a consolidated basis of Rs. 800/- per month. His engagement was purely temporary intermittent and occasional in nature. He was not paid wages through musters. There are already 197 casual workers working under temporary status and the institute could not provide any permanent post to any of them. This engagement is only for certain period. Hence, he cannot be given regularization.

7. In the cross-examination he deposed that the Petitioner is a contract labour. There is no contractor. They engaged him directly. It is not true to suggest that the Petitioner worked continuously from 1996 till termination. That they have not filed the records to show the breaks. Ex. M2 is filed by them wherein it is stated that ICXAR and it's allied institutions in central sphere shall enforce provisions of Minimum Wages Act, Contract Labour (R&A) Act, to entertain disputes under I.D. Act. It is a circular issued by Chief Labour Commissioner (C), New Delhi. 197 casual labourers were granted temporary

status those who were on rolls having worked for 240 days as on 1-9-93. He is not aware whether the temporary status was granted to several persons in NAARM on 30-12-97 vide Ex. W8. He cannot say whether they worked only during 1994, 1996 besides those who worked in 1993. They have not regularized other persons. He does not know whether NAARM entered into an agreement on 30-4-2001 vide Ex. W10 about grant of temporary status to 29 persons and regularizing 29 workers. Now, below 20 persons are working as casual/contract labour. Some contractors are there who are having license obtained from Regional Labour Commissioner(C), Hyderabad. He has not filed the same. He denied that there is no contractor or contract labour and they are engaging persons as casual employees and calling them as contract labour. At present there were no casual labourers working. It is correct that Ex. W5 was issued, that Balraj have worked for 240 hours from 7th to 10th April, 2000 and it was mentioned that as Staff Member (Obviously one cannot work for 240 hours in four days if he works without break it becomes only 96 hours).

8. MW2 Sri G. Krishna deposed that he is working as assistant Administrative Officer in the 1st Respondent's office. No muster rolls are maintained for the Petitioner. They have discontinued the services of the Petitioner on 21-5-2000. In the cross-examination he deposed that he is not aware whether they are working.

9. It is argued by the Learned Counsel for the Petitioner that Ex. W1 is the notice dated 21-6-2000. Ex. W2 is the copy of the petition filed before the Labour Court, Hyderabad. Ex. W4 is dated March 11th, 1999 which shows that Balraj has been drawing Rs. 1500/- and his seniority is 3 years. Ex. W5 as stated earlier shows that he worked for 240 hours in 4 days. Ex. W6 is about grant of temporary status to eligible casual labourers. Ex. W7 is also guidelines. Ex. W9 is about temporary status has been granted by National Academy of Agricultural Research Management, Rajendranagar, Hyderabad to persons who were granted temporary status even in 1996. Ex. W10 is the terms of settlement. He, therefore, prays that Petitioner may be reinstates with continuity of service, back wages etc.

10. The Respondent Counsel submits that Ex. W9, W10 submitted by the Petitioner does not pertain to them and it has got no bearing on the Respondents as they are not parties to it. Hence, the Petitioner is not entitled for any relief. Hence, the petition may be dismissed.

11. It may be seen that as per Ex. W4 Balraj is shown as drawing Rs. 1000/- and working from three years. But there they have not mentioned that contract of skilled assistants. It is a representation by the Petitioner and others. So far as Ex. W9 and W10 are concerned they are not applicable to the Respondents. May be it is the sister concern but that cannot be made applicable here. But suffice it to say that even MW1 admitted that he was initially appointed in January, 1996 on a contract basis on a consolidated pay of Rs. 800/- and he also admitted that 20 persons are working as casuals and it is also admitted that he has been removed from 20-5-2000. It may be noted

that first of all this Court has got jurisdiction in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others. Further, even according to MW1 circular issued by Chief Labour Commissioner (C), New Delhi, 197 casual labourers were granted temporary status who are on rolls as on 1-1-93. So now the Respondents cannot turn round and say that I.D. Act is not applicable. If, the I.D. Act is not applicable the Chief Labour Commissioner (C) has no locus standi to issue any orders, nor the Respondents would have acted. Hence, I hold that the I.D. Act is applicable. Merely because some other advocate makes some endorsement in another I.D. that he would go to Hon'ble Central Administrative Tribunal, by passing this Court/Tribunal does not take away the jurisdiction of this Court. Hence, the Respondents are directed to engage the Petitioner as casual labour on the last drawn pay or whatever pay is payable now within 30 days from the publication of this Award failing which he will be entitled to the Pay with 6% interest after 30 days of publication of this Award. The Respondents shall also consider whether granting of temporary status and then making him permanent is feasible or not as per rules.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 12th day of April, 2004.

E. ISMAIL, Presiding Officer

#### Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
WW1 : Sri M. Balraj	MW1 : Sri K. Satyananda Rao
	MW2 : Sri G. Krishna

#### Documents marked for the Petitioner

Ex. W1 : Copy of legal notice dt. 21-6-2000.  
 Ex. W2 : Copy of affidavit before Labour Court-I, Hyderabad as ID No. 621/2000.  
 Ex. W3 : Copy of counter of Management for Ex. W2.  
 Ex. W4 : Copy of list showing enhancement of wages of skilled assistants.  
 Ex. W5 : Copy of overtime certificate dt. 19-4-2000.  
 Ex. W6 : Copy of circular dt. 9-9-97 for granting temp. status to casual workers.  
 Ex. W7 : Copy of another circular issued in 1995.  
 Ex. W8 : Copy of order granting temp. status to 53 workers dt. 31-12-97  
 Ex. W9 : Copy of settlement dt. 30-12-97.  
 Ex. W10 : Copy of settlement dt. 30-4-2001.

#### Documents marked for the Respondent

Ex. M1 : Authorization letter to depose as MW1 dt. 14-8-2003.  
 Ex. M2 : Copy of circular CLS's Instrn. No. 4/85.

नई दिल्ली, 31 मई, 2004

का.आ. 1487.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एन. सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ (संदर्भ संख्या 75/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2004 को प्राप्त हुआ था।

[सं. एल०-22012/383/2002-आई.आर. (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 31st May, 2004

S.O. 1487.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 75/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of Northern Coalfields Ltd., and their workmen, received by the Central Government on 28-05-2004.

[No. L-22012/383/2002-IR(CM-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

#### PRESENT:

Shrikant Shukla  
 Presiding Officer

I.D. No. 75/2003 Ref. No. L-22012/383/2002-IR  
 (CM-I) dt. 4-7-2003

#### BETWEEN:

The General Secretary,  
 M.P. Koyala Mazdoor Sabha  
 Lohiya Bhawan, N.M. No. 627  
 PO: Amlaur Project  
 Sidhi (M.P.)

AND

The General Manager,  
 Northern Coalfields Ltd.,  
 Khadia Project,  
 Khadia.

#### AWARD

The Government of India, Ministry of Labour vide their order No. L-22012/383/2002 IR(CM-II) dated 4-7-2003 referred the following issue for adjudication to presiding Officer, CGIT-cum-Labour Court, Lucknow :

"Whether the action of the Management of Khadia Project of Northern Coalfields LTD. in regularising Sh. Amarjeet Singh. In the Post of Shovel/Poclain Operator Gr. I w.e.f. 3-5-90 instead of 3-5-89 and further promoting him to the post of excavator/Dragline Operator, Special Grade w.e.f. 3-5-2000 instead of 3-5-99 is legal and justified? If not, to what relief he is entitled?."

Union did not file any statement of claim. Thereafter notice was issued ordinary post on 25-8-03 but the union did not turned up to file statement of claim and after that registered notice was issued on 30-9-2003. Registered article not received back and therefore, it is believed that union was sufficiently served. The opposite party i.e. General Manager, Northern Coalfields Ltd. Khadia Project, Khadia was directed to file their written statement with reference to the issue referred and in compliance of the order the opposite party filed the written statement post no. A2-8.

Since the union did not come forward to file their statement of claim and therefore, case proceeded to ex-parte against the union.

The management has stated that the workman concerned Amarjeet Singh had no objections regarding promotion/selection which have been made to him during his service tenure of 26 years, which were made according to the provisions of job nomenclature formulated by Joint Bipartite committee for Coal Industries (which consists of five trade unions viz INTUC, AITUC, BMS, CITU AND HMS and management of Coal India Ltd.) Sri Amarjeet Singh the workman concerned was appointed as general Mazdoor Category-I on April 1, 1974. Thereafter, he was promoted/selected to the post of Dumper Operator Gr. I Group B with effect from 10th December 1979. He was again promoted/selected as Sr. Dumper Operator Group-A with effect from 17th December 1985.

The workman concerned again selected for training for the job of Shovel/Excavator Operator with effect from 3rd May, 1989 and after completion of the training, he was regularised as Shovel/Excavator Operator, Group A with effect from 3rd May 1990. The job of Dumper Operator and shovel/Excavator Operator are totally different from each other, as the Dumper Operator transports coal from one place to another whereas the Shovel/Excavator Operator is used to excavate coal/over burden, which needs skills for operating excavators. This is why sufficient training is required before putting a man on such machines.

Sri Amarjeet Singh was promoted/selected to the highest grade of Excavator/Dragline Operator-Special Grade, with effect from 3rd May 2000 according to the provisions of nomenclature/job description formulated by Joint Bipartite committee for Coal Industries. All promotions stated above were according to the nomenclature and job descriptions for coal employees. Sri Amarjeet Singh had accepted all the promotions/selections and availed the benefits of the promotions/selections without any objection, except that he had raised an industrial dispute after 4 years of being selected as Shovel Operator-Group A with effect from 3rd May, 1990. The said dispute was pertaining to his promotion/selection as Shovel Operator Group A effective 3rd May 1990. He had raised the dispute alleging that "his entitlement as Shovel Opnr. Grade I Group A with effect from May 3, 1989 (the period of training as Shovel Operator)". The dispute was rejected the Government vide order No. L-22012/598/94-IR (C-II) dated 15-6-95, finding no merit to refer the matter for adjudication. The workman Amarjeet Singh through his union MPKMS,

affiliated to HMS again raised an industrial dispute for the same issue was earlier rejected by the Government of India. The matter has been referred for adjudication without going to the merit of the case. The management has also stated that the promotion/selection of workman concerned as Shovel/Excavator Operator Gr-I Group A with effect from May 3, 90 has been done after completion of one year training is fully legal and justified and the workman concerned is not entitled to any relief whatsoever. The management has also submitted that the matter has also become infructuous as the workman concerned has reached the highest grade of his cadre and the dispute is thus unjustified and uncalled for.

Heard Sri Sanjay Srivastava representative of the opposite party and Sri A.K. Guha, Sr. Law Officer of the Opposite party and perused the evidence on record. The written statement filed by the opposite party is duly supported by affidavit of Chandrma Mishra, Chief General Manager, Northern Coal Fields Ltd. Khadia Project, Khadia, Sonbhadra.

I have gone through the copy of Circular No. PD/EXcv. Staff /72/pt. II/155 dated 24 July, 1980 issued by Director (Pers) CCL Ranchi addressed to GM, Singrauli and Project Officer, Jhingurda which laid down the provisions for training prescribed for excavation category. Circular laid down that its exigency of work regulars Gr. I Dumper Operator in Cat. B would be selected to undergo training of Shovel Operator. According to the said circular even Dumper Operator Gr. I in Cat. B of Excavation Categories who will be selected as Trainee Shovel Operator is required to undergo for one year and would be paid the same wages for the period of training which he was getting as Dumper Operator Gr. I. Circular also laid down the candidates having received the training & tested and cleared by a selection committee constituted by the GM of area concerned will be put on regular Shovel Operator i.e. Category 'A'.

Learned representative of the opposite party has stated that the worker was Dumper Operator Gr. I category 'A' and he was selected for training as Shovel Operator/Excavator. He has argued that any person as Dumper Operator Gr. I can not be *su motto* be made as Shovel Operator/Excavator Operator Gr. A unless he has undergone training for one year. The wages for Dumper Operator Gr. I Group A are equal to that of Shovel Operator/Excavator Operator Group A. There is no difference in wages but Dumper Operator Gr. I Group A can not become Shovel Operator unless he has successfully obtain the training. Sri Amarjit Singh was sent for training on 3-5-89 and he completed the training and cleared test on 3-5-90 and therefore, the date on which he was selected by selection committee the final and alion was to be treated as Shovel Operator Gr. I Category A.

From the evidence on record I come to the conclusion that so far as Amarjit Singh's regularisation on Shovel Operator/Excavator Operator Gr. I is concerned, he was justly regularised on 3-5-90. He could not be have been regularised on the Shovel Operator/POOLA Operator on 3-5-89 on the date when he was sent for training.

During the argument it is made clear that Shovel Operator/Poclain Operator post is the same Shovel Operator/Excavator Operator.

Therefore I come to the conclusion that management of Northern Coalfields Ltd. Khadia project, Khadia rightly regularised the services of Amarjit Singh on the post of Shovel Operator/Excavator Operator w.e.f. 3-5-90.

As far as 2nd part of the issue is concerned the management has proved that the worker has been promoted to the post of Excavator Operator/Dragline Operator Special Gr. w.e.f. 2-5-2000 after 10 years of experience as Shovel Operator/Poclain Operator Gr. I

The management has filed paper No. 11/2 for Excavator Operator special grade.

It is given in the job description of special grade excavator operator is that;

"A highly skilled workman with not less than 10 years experience in the operator of electric diesel dragline/shovels. He should have been knowledge of the mechanism and maintenance or such machines including running repairs. He should operate shovels/ draglines of capacity of B cu, Metr. and above. He should operator dragline/shovels in a sare and stable ground after minimum cycle time. He should also ensure the safe upkeep of the machine and also attend to maintenance and repairs. He should undertake preventive maintenance and minor repairs.

Since the workman Amarjit Singh completed 10 years on 3-5-2000 and has gain experience or 10 years, he was entitled to the promotion/selection on 3-5-2000 and not on 3-5-99. Therefore the issue referred to this court is decided in favour of the management against worker. The workman has been dully regularised on the post of shovel operator/poclain operator Gr. I on 3-5-90 and he has been rightly be promoted on the post of excavator/dragline operator special Gr. I. on 3-5-2000. In the circumstances the worker is not entitled to any relief whatsoever.

SHRIKANT SHUKLA, Presiding Officer

LUCKNOW  
25-5-2004

नई दिल्ली, 31 मई, 2004

का.आ. 1488.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या 124/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2004 को प्राप्त हुआ था।

[सं० एल-22012/26/2000-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 31 May, 2004

S.O. 1488.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 124/2002) of the Cent. Govt. Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of SCCL and their workmen, received by the Central Government on 28-5-2004.

[No. L-22012/26/2000-IR(C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismail, B. Sc., LLB., Presiding Officer

Dated the 10th day of May, 2004

INDUSTRIAL DISPUTE No. 124/2002

(Old I.D. No. 96/2000 transferred from Industrial Tribunal-I, Hyderabad)

#### Between :

Sri Gudepu Balaiah,

H. No. 11-4-485/2,

Taraka Ram Nagar,

PO : 8th Incline Colony,

Godavarikhani-505211.

District : Karimnagar.

And

the General Manager,

M/s. Singareni Collieries Co. Ltd.,

Ramgundam-II,

Godavarikhani-505 211.

#### Appearances :

For the Petitioner

: Sri P. Surender Kumar,  
Advocate

For the Respondent

: Sri T. Ravinder Rao,  
Advocate

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-22012/26/2000-IR (CM. II) dated 4-8-2000 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to the Industrial Tribunal-I, Hyderabad between the management of M/s. Singareni Collieries Co. Ltd. and their workman which has been transferred to this Tribunal in view of Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR (C.II) dated 18-10-2001 bearing No. I.D. 96/2000. The reference is,

#### SCHEDULE

"Whether the action of the management of M/s. Singareni Collieries Co. Ltd., Ramgundam-II, Godavarikhani in dismissing Sh. Gudepu Ballaih, General Mazdoor Cat. I w.e.f. 28-12-98 as per the Enquiry Report is justified? If not, to what relief is the Petitioner is entitled?"

The reference is renumbered in this Tribunal as I.D. No. 124/2000 and notices were issued to the parties.



2. The brief averments as averred in the claim statement are : That the Petitioner joined in the Respondent Company as badli filler on 1-12-86. Consequently his services have been regularized from 1-3-93 as general mazdoor category one. That the Respondent issued a charge sheet for unauthorized absence for 334 days from January, 1997 to December, 1997. He submitted an explanation to the charge sheet stating that the different spells from January, 1997 to December, 1997 has been with recommendation of authorized Doctor of Singareni Hospital. Still, the enquiry was started. That while on duty he has met with several accidents i.e., on 19-3-90, 16-7-91, 17-7-91, 14-5-91, 19-8-92, 24-6-94 and on 2-2-95. On each and every time the accident, reports issued by Officer-in-Charge in favour of the Petitioner. The Petitioner sustained severe and non-fatal injuries resulting the Petitioner became sick oftenly so that the Petitioner used to avail treatment from Singareni Hospital whenever he feel sick. Though the Petitioner has been informing performing his duties by putting risk of life, the Respondent Management did not consider all these aspects and that contemplated a disciplinary action in an usual manner without any appreciation. The Enquiry Officer proceeded with an exparte enquiry and no opportunity was given to the Petitioner to find out the veracity of witness etc. That the enquiry is vitiated. That the Petitioner on the streets at the age of 43 years (Now he must be of about 45 years). Hence, he may be reinstated with all back wages and attendant benefits.

3. A counter was filed stating that the reference is not maintainable as it is not a case of dismissal for misconduct but case of abandonment of the Petitioner from the employment. the Petitioner in fact did not have any musters for almost 3 years and finally he left on his own accord without intimation. Petitioner was originally appointed as badli and subsequently was placed in General Mazdoor category I from 1-3-93. His services record is as follows : in 1994-154 musters, in 1995-36 musters, in 1996-Nil, in 1997-5 musters, in 1998-2 musters. That the Petitioner is very poor in attending his duties. Hence, a charge sheet has been issued to him which has been received by him on 8-5-98 but no explanation was given. Number of enquiry notices were served but he did not attend and did not give reasons for not attending. Hence the enquiry findings were sent to him on 18-11-96. He did not choose to submit his explanation. That he met with a mine accident on 31-12-97 and kept under accident sick list from 1-1-98. Even as per the Medical Superintendent, the patients very irregular in attending the Out Patient Department in the Hospital. In fact the Petitioner has completely abstained from coming to the hospital from 22-2-98. The Respondent has got a full-fledged and well equipped hospital. The enquiry was rust and hence, he is not entitled for any Award and even after raising the dispute he took lot of time in filing the claim statement.

4. Arguments were heard on validity of domestic enquiry. That the enquiry held valid as per order of this Court dated 25-8-2003. Hence, arguments were advanced under Sec. 11A.

5. It is argued by the Learned Counsel for the Petitioner that it is a sympathetic case where the Petitioner has met with half a dozen accidents while performing duties. Not that he has been like that, otherwise he was appointed in 1986 as Badli Filler and promoted as General Mazdoor, Cat. I, in 1993 and was dismissed from service on 28-12-98. Hence, a chance may be given to him.

6. It is argued by the Respondent that after all what is his attendance? Even in 1998 he has put two musters, in 1997-5 musters, in 1996-Nil musters, in 1995 only 36 musters. Can any leniency be shown to such a person? He submits that any leniency shown to them be a misplaced sympathy at all. He may not be reinstated.

7. It may be seen that when one goes through his attendance record it is hopelessly bad especially from 1995 onwards. Apparently he does not deserve any sympathy. But as he is said to have met with several accidents which is not denied by the Respondent, I am of the opinion that one chance can be given to him. Hence, the reference is ordered as follows : The action of the Management of M/s. Singareni Collieries Co. Ltd., Ramagundam-II, Godavarikhani in dismissing Sh. Gudepu Ballaiah, General Mazdoor Cat. I, w.e.f. 28-12-98 as per the enquiry Report is not justified. The Respondent is directed to reinstate the Petitioner on the initial pay of General Mazdoor, Cat. I within 30 days from the publication of this Award. However, his re-appointment is also conditional, unless he works for three consecutive years with minimum musters he shall not be regularized and liable for dismissal. The Petitioner will not be entitled for any back wages and his services from 1-12-86 to 28-12-98 shall be counted for the purpose of terminal benefits only. The period from 28-12-98 till he is reinstated shall not be counted as service.

Award passed. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 10th day of May, 2004.

E. ISMAIL, Presiding Officer

#### Appendix of evidence

Witnesses examined for the Petitioner : Witnesses examined for the Respondent :

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2004

का.आ. 1499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी. एल. के प्रबंधन के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या 261/2002) को प्रकटित करती है, जो केन्द्रीय सरकार को 28-5-2004 को प्राप्त हुआ था।

[सं. एल-22012/290/2001-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 31st May, 2004

**S. O. 1489.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 261/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of Singareni Collieries Company Limited and their workman, received by the Central Government on 28-5-2004.

[No. L-22012/290/2001-IR(CM-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ATHYDERABAD

**PRESENT:** SHRI E. ISMAIL, B. Sc., LLB,

PRESIDING OFFICER

Dated, the 10th day of May, 2004

#### INDUSTRIAL DISPUTE NO 261/2002

#### BETWEEN:

Sri S. K. Mastan Vali,  
Shop No. 7, Ramalaya :  
Complex, P V Colony,  
P.O. Manuguru,  
District Khammam- 507125. ....Petitioner

#### AND

The General Manager (P)  
Singareni Collieries Co. Ltd.,  
P. O. Manuguru,  
District Khammam- 507125. ....Respondent

#### APPEARANCES :

For the Petitioner : M/s G. Vidya Sagar, K. Udaya  
Sri P. Sudheer Rao, & B.  
Shivakumar, Advocates

For the Respondent : M/s. K. Srinivasa Murthy, V.  
Umadevi, L. Adibabu, C. Vijaya  
Shekar Reddy, Venkata Prasad,  
P. Sanjeeva Reddy, Suresh, K.  
Sridhar, M. Praveen, B. Vijaya  
Kumar, G. Praveen &  
K Bhanuprakash Reddy  
Advocates

#### AWARD

The Government of India, Ministry of Labour by  
its order No. L-22012/290/2001-IR(CM-II) dated 10-7-2002

referred the following dispute under Section 10(1) (d) of the I.D. Act, 1947 for adjudication to this Tribunal between the employers in relation to the Management of Singareni Collieries Co. Ltd. and their workman.

#### SCHEDULE

“Whether the action of the management of Singareni Collieries Company Limited, Manuguru in dismissing Sri S.K. Mastan Vali, Ex-Security Guard from service w.e.f. 31-1-98 is legal and justified?” If not to what relief is the workman entitled?”

This reference was registered as Industrial Dispute No. 261/2002 and notices were issued to the parties.

2. The brief averments as averred in the claim statement are : That the Petitioner has joined the respondent company on 10-10-78 as Security Guard. He has put in 24 years of service to the satisfaction of his superiors. On 25-8-1995 he was working in the 1st shift at the Main Gate of the O.C. Stores, Manuguru as Security Guard. His shift starts from 8.00 A.M. and ends at 4 P.M. It is alleged that on 25-8-95 the company materials worth of Rs. 6.25 lakhs was found to be missing. It is further alleged that the Petitioner allowed one private car inside the compound of O.C. Stores through Main Gate without entering the details of the said car in the Register meant for the same and also did not check the car and allowed it to go out through main gate without security check. A charge sheet was issued to him on 1-9-95 and the Petitioner submitted a detailed explanation on 16-9-95 denying the charge. Without considering the same the enquiry was ordered into the charges. Enquiry officer conducted a farce of enquiry and held that the charges against the Petitioner are proved. That the respondent issued office order dated 31-1-98 dismissing the Petitioner from service. An appeal was submitted to the Chairman and Managing Director, however, no response from the respondent with regard to the appeal. That he allowed the car to come inside and allowed to go out under the orders of the Executive Engineer without check. That in the enquiry proceeding it was clearly observed that there are all possibilities of the material being lost on earlier occasion or the material might not have entered into register maintained by the Stores staff and there is no evidence that the material was lost after the car came inside the gate. Without taking into consideration the above facts the Enquiry Officer has given findings that the charge lodged against the Petitioner is held proved. Various facts are stated and it is submitted that he may be reinstated into service with back wages etc.

3. A counter was filed stating that it is correct that he was working as Security Guard at the main gate of O.C. Stores, Manuguru on 25-8-95. That it is because of the negligence of the Petitioner the Respondent suffered a loss of 5.38 lakhs. The Petitioner being given full

participated in the domestic enquiry and also took assistance of Sri Ch. V.S.P. Ravi Kumar, Security Guard in conducting his defence. He cross examined the Management witness. That the Appellate Authority passed a speaking order on 8-12-98 and confirming the order of dismissal passed by the Disciplinary Authority. That one person came from the Car and has shown him the gate pass issued by the Executive Engineer is correct. But he allowed the private car without entering the details and further allowed to go out without security check. That the Executive Engineer asked him is denied. In fact the Divisional Engineer is Incharge of the Stores. That Injectors and Gear Pumps valued about Rs. 5.38 lakhs was found to be missing from O.C. Stores. Hence, the punishment was not disproportionate and make it confirmed.

4. It was submitted that as the Petitioner has reached superannuation age, it is conceded that the enquiry is validly conducted and arguments were heard under Sec. 11A.

5. It is argued by the Learned Counsel for the Petitioner that how can it be conclusively said that the said material was taken out in the said car. So there is some benefit of doubt should always go to the charged employee, just like the benefits of doubt goes to the accused in a criminal case and the petitioner may be reinstated with full back wages.

6. It is argued by the Learned Counsel for the Respondent that it is a clear case whether the Petitioner had negligently allowed car to go inside without checking where there were 4 to 5 persons inside the car and also allowed to go out without checking. So clearly this misconduct is there causing the company a loss of Rs. 5.38 lakhs. So no sympathy is need to be shown and the dismissal order may be confirmed.

7. It may be seen that the Enquiry Officer while concluding the enquiry observed as follows, "With this it is clearly evident that Sri Mastan Vali, Security Guard had allowed private car on 25-8-95 inside the premises of O.C. stores through main gate negligently without entering its details in it's register meant for the same and also negligently did not check the car while allowing it to go out." Thus, the above act of negligence of Sri Mastan Vali, charge sheeted employee towards his duty is a misconduct under company's standing orders 25(5).

8. It may be noted that apparently there is no allegation against him that he connived or shared in the bounty along with those persons in the car. No doubt, there is negligence and gross negligence on his part as seeing the present day law and order situation, any one would have got inside and there might have been more trouble. Hence, I am of the opinion that while holding the order dismissal, some relief can be given to the Petitioner. Accordingly, the reference is ordered as follows:

"The action of the Management of Singareni Collieries Co. Ltd., Manuguru in dismissing Sri S.K. Mastan Vali, Ex. Security Guard from Service w.e.f. 31-1-98 is legal and justified. However, the Petitioner has put in a service from 10-10-98 and was dismissed on 31-1-89 for 20 years. Hence, I am of the opinion that an amount of Rs. 20,000 @Rs. 1000/- per year of his service shall be paid to the Petitioner within 30 days after publication of this award failing which he will be entitled to 6% interest p.a. after 30 days of publication of this Award."

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 10th day of May, 2004.

E. ISMAIL, Presiding Officer

#### Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent :
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2004

का.आ. 1490.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. ई. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर [संदर्भ संख्या सी०जी०आई०टी०/एल०सी०(आर०)74/2000] को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2004 को प्राप्त हुआ था।

[सं. एल०-22012/436/99-आई० आर० (सी एम-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 31st May, 2004

S.O. 1490.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government here by publishes the Award [Ref. CGIT/LC(R)(74)/2000] of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of South Eastern Coalfields Ltd., and their workmen, which was received by the Central Government on 28-5-2004.

[No. L-22012/436/99-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
CUM-LABOUR COURT,  
JABALPUR

**PRESENT:**

SHRIKANT SHUKLA,  
PRESIDING OFFICER

CASE NO. CGIT-/LC(R) (74) of 2000

Between Sub Area Manager, Balgi Project, South Eastern Coalfields Limited, P.O. Distt-Korba (Presently Chhattisgarh)

**AND**

Secretary  
Sanyukta Koyla Mazdoor Sangh, (AITUC),  
C/o SECL Balgi Branch,  
Korba  
(Presently Chhattisgarh)

**AWARD**

Govt. of India. Ministry of Labour vide its order No. 22012/436/99/IR(CM-II) 29-02/7-3-2000 referred the following issue for adjudication to P.O. Central Govt. Industrial Tribunal-cum-Labour Court, Jabalpur.

“Whether the action of the management of Balgi Project, SECL in denying promotion to Shri Samay Lal Sahu in Cat. IV w.e.f. 5.12.94 i.e. the date from which promotion was given to his junior Shri Ghanshyam Tripathi is legal and justified?” If not, to what relief the workman is entitled?”

The Secretary, SKMS field statement of claim alleging that the management knowingly by neglecting the scheme of cadre promoted Shri Ghanshyam Tripathi S/o Shri Girja Prasad to the post of Mechanical Fitter, Cat. IV ignoring the seniority of Shri Samaylal Sahu S/o Shri Bodh Ram.

The management field written statement paper No. 3 alleging that Shri Ghanshyam Tripathi was given promotion on 5-12-94, and the union never objected to it nor raised any industrial dispute before any authority. For the first time that on 9-10-98 after lapse of 4 years, the union raised dispute before the Asstt. Labour Commissioner (C) Bilaspur. The claim of the union is liable to be dismissed on the ground delay-laches. It is also alleged that the claim against Sub-Area Manager, Balgi Project is not maintainable because the dispute has not been raised with the Competent Authority. It is also alleged that Shri G.S. Tripathi with whom the union is comparing his case is highly qualified, meritorious and dedicated worker. Shri Tripathi was doing all job of Fitters independently and he shouldered the responsibility of higher post. It is also alleged that Shri G.S. Tripathy is not junior to the worker Shri Samay Lal Sahu. Both of them joined at Balgi Project on 19-9-90 as Cat. I General Mazdoor and both were promoted to the post of Fitter Helper Cat. II on 1-1-92. Action of the management was purely based on the natural justice considering the continuous working in higher grade without

any interruption. After receiving the report from the Manager, Shri Tripathi and other workman were regularized as per the norms and recommendation of the departmental promotion Committee. Mr. Tripathi exposed, developed himself that he could independently shoulder the responsibility of Cat. IV. As such he was authorized to work as Cat. IV and he was satisfactorily discharging the job of cat. IV for a period of 19 months. The DPC was constituted to regularize the workman working in higher grade by Office Order No. 1099 dt. 10-6-94. The DPC met on 5-12-94 and examined the case of workman working in higher grade. Considering the merit the DPC had recommended the case for regularization of Shri G.S. Tripathi as Cat. IV and the DPC report having approved regularization Shri Tripathi and Office Order was issued to Shri Tripathi.

The worker field affidavit in support of his case to rebut the claim of management. Subsequently, the union filed an application duly signed by Samaylal Sahu informing the court that the management vide order No. dt. 30-3-03 promoted the worker Shri Samaylal Sahu at Cat. IV, and therefore, the dispute has ended, and hence union wants to withdraw the case. The union has also field copy of the office order. The management has examined Shri D. K. Sharma who has stated on oath that Shri Ghanshyam Tripathi was regularized in Cat. IV vide circular dt. 13-6-98. Since Shri Samaylal was not working in the higher Category, he was not regularized and promoted. Subsequently, on 30-3-2004 Shri Samaylal too has been promoted in Cat. IV.

It has also been proved that Shri G. S. Tripathi was meritorious than Shri Samaylal Sahu, and he was able to do the job Cat. IV worker independently, and on the basis of merit he was regularized in the Cat. IV. Shri G.S. Tripathi was put in 190/240 days work on the higher Category and therefore, he was regularized/promoted.

The union has not stressed on their claim as the worker Samaylal Sahu was promoted on the higher Category during the proceeding of the case.

From the discussion I have come the conclusion that Shri G. S. Tripathi was regularized as he was already working on the higher grade independently for a long time therefore, he was regularized in the Cat. IV. the worker cannot claim to have been regularized alongwith Shri G. S. Tripathi and since the union has withdrawn the claim. The issue is accordingly decided against the union and it is held that the promotion of the Shri G.S. Tripathi was not illegal or unjustified. Award is passed accordingly.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 31 मई, 2004

का.आ. 1491.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. ई. सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी०जी०आई०टी०/एल०सी०(आर०)76/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2004 को प्राप्त हुआ था।

[सं. एल०-22012/391/91-आई०आर० (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 31st May, 2004

**S.O. 1491.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC(R)(76)/93) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 28-5-2004.

[No. L-22012/391/91-IR (C-II)]

N.P. KESAVAN, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JABALPUR

CASE NO. CGIT/LC(R) (76)/93

Presiding Officer : Shrikant Shukla

Shri Tilakram s/o Chehar Ram,  
Qtr. No. 5/3, P.O.: Bankimogra,  
Tah. Katghora,  
Distt. : Bilaspur.

AND

SECL, Banki

12-5-2004

#### AWARD

The Govt. of India, Ministry of Labour vide its order No. L-22012/139/91/IR(C-II) dtd. 7-4-1993 referred the following issue for adjudication to the Presiding Officer, CGIT, Jabalpur.

क्या एस.ई.सी.एल. के बांकी कोलियरी, बांकी मोगरा, तहसील कटघोरा, जिला बिलासपुर म.प्र. के प्रबंधक द्वारा श्री तिलक राम पूर्व सिक्योरिटी गार्ड को सेवा निवृत्त करना वैध और न्योचित है। यदि नहीं, तो कर्मकार किस प्रकार का अनुतोष पाने का हकदार है।

The workman Shri Tilakram filed Statement of Claim on 24-1-1995 after more than 1-1/2 years from the order.

The workman has alleged in the Statement of Claim that he was appointed as Security Guard on 1-7-1963 in Surakachhar Colliery. He has stated that he gave his date of birth certificate issued by School and Gram Panchayat at the time of appointment. He has further alleged that he

was transferred in 1976 to Banki Mogra Colliery in the same capacity. The workman alleges that in the year Jan. 1986 he made a representation for Special Increment but he was told that he was not eligible due to excess age which was apparently made out at their sweet will by Banki Mogra Colliery management. The workman made a representation on 12-1-1986 for the original service record followed by another representation dtd. 6-3-1986. The management by letter dtd. 22-3-1986 intimated that he was due to retire on 6-5-1986 on attaining the age of superannuation. The worker again made a representation on 18-5-1986 alongwith date of birth certificate issued by School Authorities and the Gram Panchayat but no reply was given by the management and he was retired from service on 6-5-1986. The workman made further representation to the colliery authorities but with no result. Ultimately, he filed an industrial dispute before ALC(C), Bilaspur which ended in failure. But no reference came forward from the Government hence he filed a petition in the High Court of MP. The Hon'ble High Court in Misc. Petition No. 2909/90 ordered on 5-1-1993 and ultimately reference was made on 7-4-1993. The worker has alleged that his retirement from service from 6-5-1986 is illegal and unjustified. It is based on the assumption and therefore, The workman is entitled to be in service up to 1-7-1998. He was illegally prevented from service from 6-5-1986 as such he is entitled to full wages from 6-5-1986 to 1-7-1998 with all consequential benefits.

It is not worthy that the statement of claim is not accompanied by any document, although the same is mentioned in the statement of claim. The worker has not filed copy of any representation, birth certificate or any certificate of the like nature.

The management has filed its written statement. The management has stated that the worker retired infact on 5-5-1986. It is admitted by the management that the worker was initially employed in Surakachhar Colliery. The management's allegation is that the worker concerned was not working as Watchman Cat. I in the Banki Colliery. The management has categorically stated that at the time of employment the worker gave his date of birth as 6-5-1926 and this date of birth has been maintained in all the records of the management. As per Form "B" Register maintained by the management under the provisions of Mines Act, the date of birth of the worker is recorded as 6-5-1926 and the same is counter signed by the workman and the workman has never objected to this. The workman is employed in coal mines and, therefore, is governed by Mines Act and Mines Rules. Under the Mines Act, an employee is required to give his date of birth at the time of initial appointment and Shri Tilakram gave his date of birth as 6-5-1926 only. After nationalization of Coal Mines, in accordance with the decision of Coal India to give an opportunity to the workers to correct their date of birth, if any, a notice was issued for the information of the workers

including. The workman concerned to give his representation, if any. The Sub Area Manager by his letter dtd. 6-4-1982 put on all notice boards of the colliery, a notice intimating the date of birth of all the employees employed in the colliery. The workman's name was shown at Sr. No. 47 of the said notice and his date of birth has been shown as 6-5-1926. The employees were asked to submit objection if any within 90 days. The workman concerned did not submit any objection and, therefore, it was taken as granted that his date of birth shown in the office record is correct.

After retirement of the workman, his Provident Fund claim was prepared in the prescribed form in which his date of birth is shown as 6-5-1926. The workman signed in the said Form also in the front page without any objection. During the pendency of the matter in conciliation, enquiries were also made from Surakachhar Colliery where the worker was earlier working. The Sr. Personnel Officer, Surakachhar vide his letter dtd. 12-7-1991 has intimated that the date of birth as per the records maintained in the colliery in respect of Shri Tilakram is 6-5-1926. The management has further alleged that the worker was in the service from 1-7-1963 till his retirement but he did not produce any record to challenge the date of birth entered in the office record duly verified and signed by him. He was given a quarter while in service. He was required to surrender the quarter after his retirement but he has refused to vacate the quarter and is illegally occupying the same. As the management was insisting him to vacate the quarter, the workman raised the present dispute regarding his age without any basis. Under the Circumstances, the management has requested that reference be answered by holding that the date of birth of the worker has been correctly recorded as 6-5-1926 and the workman concerned is not entitled to any relief.

The management has filed a re-joinder, paper No. 9 denying that the worker was appointed as Security Guard and has alleged that he was appointed as a General Mazdoor. It has been specifically denied that the worker gave any birth certificate issued by the School/Gram Panchayat at the time of appointment. In case he was appointed on 1-7-1963, the certificate should have been prior to that date as per the statement of claim of the workman. The management has also denied that the worker has given any representation in the year 1986 for increment. The management has further stated that the workman produced a certificate showing that he has studied class I and also a certificate from the Gram Panchayat just one month before his retirement. The management has also denied that the retirement of the workman concerned from service w.e.f. 5-6-1986 is illegal and unjustified. The management has also specifically denied that retirement took place based on the assumption and in absence of original service records. The management has stated that the workman is not entitled to remain in service upto 1-7-1998. The management has alleged that during the entire

period of service from 1-7-1963 till his retirement, the worker did not produce any authentic record to challenge the date of birth entered in the office records of the management.

The management has filed the following documents :

1. Notice dtd. 6-4-1982-Paper No. 11/2 to 11/7.
2. Notice of retirement-Paper No. 11/8.
3. I.I. No. 37 of of NCWA-II regarding procedure for determination/verification of the age of employees.-Paper No. 11/9 and 11/10.
4. Letter dtd. 12-7-1991 of Sr. P.O., Surakachhar Colliery, addressed to Personnel Officer, Banki Sub Area regarding date of birth-paper No. 11/11.
5. Photostate copy of Form "B"—Paper No. 11/12.
6. Photostate copy of CMPF claim.-Paper No. 11/13.

Since the workman did not turn up the court ordered to proceed *ex parte* against the workman. The management has filed affidavit in respect of its case i.e. Paper No. 16.

Heard the representative of the management Shri A.K. Sashi and perused evidence on record. Since the workman or his representative were not present they could not be heard.

The workers has not filed any document although filing of certain documents is mentioned in the statement of claim.

The workman has not pleaded as to what is his exact date of birth. The workman has not proved as to what is his date of birth according to him. The workers has not filed any document or evidence to prove that he made representations for correction of his date of birth to the management before his retirement.

The learned representative of the management has argued that the workman was offered accommodation and was not vacating the house after his retirement and, therefore, he opted to initiate this proceeding so that the management is restrained from getting the possession of the house. It has been argued that there is scarcity of the quarters for the workers who are working in coal mines and other workers in the waiting list are deprived of allotment of such houses due to such factitious litigations. Shri Sashi was asked whether he has filed any affidavit in support of above argument? He replied that no evidence was needed since the worker has not filed any rejoinder to revert the contents of written statement.

The management has stated all along, the date of birth of the workman was entered in the service record as 6-5-1926 and the workman had always an opportunity open to him for correction of date of birth if the same was not correct. Unless there is discrepancy in the service record, it is not open to challenge. The management representative has pointed out that Form "B" register is being maintained under the provisions of Mines Act in which the date of

birth is mentioned as 6-5-1926. Had it been wrong, the worker should not have affixed his photo or put his thumb impression. He had every opportunity to challenge the Form "B" at appropriate stage. The management has also argued that looking to the increasing number of fictitious cases being adjudicated by various courts with regard to age, the management preferred an alternative. The management published the date of birth of each and every worker and mentioned the date of birth as per records of the management. The workers were invited to point out discrepancies, if any. In the present case also, the management has an early as on 6-4-1982 issued notice to all concerned employees and invited objection in writing within 90 days. The notice, copy of which is Paper No. 12/2, was placed on notice board. If the workers's date of birth was incorrect, he should have challenged the same or represented that the date of birth shown in the official records are not correct. The management representative has also argued that the workers at the fag end of their service when they are at the verge of retirement, resort to such litigation with a view to obtain salary for a few more years which can not be permitted.

I have gone through his argument and perused the evidence. It is proved that the workman was initially employed as General Mazdoor in Surkachhar Colliery and at the time of his employment the worker declared his date of birth as 6-5-1926. It is also admitted fact that the workmen who are employed in coal mines are governed by mines Act & Mines Rules etc. Under the Mines Act an employee is required to give his full particulars including the date of birth at the time of initial appointment. The workman has not mentioned in his statement of claim as to in which School he studied and when he left the studies. So far as the Panchayat certificate is concerned that has no weight. More over, no Panchayat certificate has been filed before the Court. It is also proved that according to the rules register of employment known as Form "B" is maintained by the management in each colliery, and also where the employee is working. Particulars of the workmen are recorded in Form "B" based on the declaration given by the workmen. On the Form "B" Register, signature of the worker stands as a token of correctness of the entries made therein. Photostat copy of Form "B" Register is on record that shows the workman's date of birth was 6-5-1926. It is also proved by the management that SAM by his letter dtd. 6-4-1982 put on all notice boards of the colliery, a notice indicating the date of birth of all the employees and the workman's name was shown at Sr. No. 47 of the said notice and his date of birth has been shown as 6-5-1926. The employees were asked to submit objection, if any within 90 days. The workman concerned did not submit any representation and, therefore, it was taken for granted that his date of birth shown in the office record is correct.

A copy of notice dtd. 6-4-1982 together with the list is on record and the worker's name is found at Sr. No. 47 and the date of birth mentioned therein is 6-5-1926. If the workman has not represented against the notice, he can at a later stage can not claim that his date of birth is wrongly recorded in the service records maintained by the management.

I come to conclusion that the date of birth of the workman was 6-5-1926 and he completed 60 years of age on 5-5-1986 and, therefore, his retirement by the management is legal and justified. The issue is, therefore, decided in affirmative. Accordingly, the worker is not entitled to any relief.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 31 मई, 2004

का.आ. 1492.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. ई. सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी.(आर.)148/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2004 को प्राप्त हुआ था।

[सं. एल.-22012/354/95-आई.आर. (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 31st May, 2004

S.O. 1492.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. CGIT/LC(R)(148)/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL and their workman, received by the Central Government on 28-5-2004.

[No. L-22012/354/95-IR (C-II)]

N.P. KESAVAN, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, JABALPUR

CASE NO. CGIT/LC(R) (148)/96

Presiding Officer : Shrikant Shukla

#### AWARD

The Govt. of India, Ministry of Labour vide their Order No. L-22012/354/95-I.R. (C-II) dated 18-7-96 has referred the following issue for adjudication :—

"Whether the action of the management of SECL Laxman Opencast Project, Kusmunda Area, Bilaspur by not changing the Date of Birth as 16-6-1944 instead



of 1-1-1937 of Sh. Hem Lal S/o Mohit Ram is justified? If not, what relief the workman is entitled to?"

While passing the order and issuing order a copy was endorsed to the Secretary Sanyukta Khadan Mazdoor Sangh (AUTUC), Kusmunda Project, Bilaspur, but the union did not file the statement of claim. Thereafter notice was issued by the Tribunal to the union, but nobody turned up to file the statement of claim. Notice was sent through Registered Post to the union (Registry No. 3301 dt. 5-3-04). But union did not file the statement of claim. Therefore on 11-5-04 which was the date of evidence, the P.O. ordered the case to proceed ex-parte against the union.

The management filed W.S. stating therein that Hem Lal S/o Mohit Ram was appointed in Banki Colliery on 21-6-65. Shri Hem Lal was transferred on 10-10-84 to Kusmunda Project. It is alleged that at the time of appointment the worker Hem Lal got his date of birth entered as 1-1-1937 in his service records and the worker Hem Lal has put his thumb impression. Ultimately Hem Lal was transferred to Laxman Open Cast Mine where Form B was prepared and in that document also the date of birth of worker was entered as 1-1-37. Hem Lal prepared his own service document on 13-1-88 wherein he himself declared his date of birth as 1-1-37. The management has prayed that the issue may be disposed of accordingly.

The management has filed affidavit paper No. 8 to prove their statement of claims.

I perused the affidavit and preferred to examine the Personnel Officer Shri P.V. Satyanarayan who filed the affidavit before the court.

The management has also filed the following documents:

- (i) Extract the service register of Hem Lal paper No. 7/4.
- (ii) Photocopy of Form-B Paper No. 7/5
- (iii) Details of service record prepared by the workman dated 13-01-88 Papers No. 7/6.

Heard Sr. L.O. of the management and perused the record. Learned representative has argued that the record has been prepared in due course of business and they are old record, the photocopies of which have been filed by the management before the court. Learned counsel has argued that by no stretch of imagination it would be said that the management itself manipulated the record in 1965 when the same was being maintained by the official at the time of appointment of Hem Lal. He himself has declared that his date of birth is 1-1-1937 and had put his thumb mark. It can not be said that he never knew while entering in the service that his date of birth is recorded as 1-1-37 in Banki Colliery. Had the wrong entry been recorded in the service register, the worker must have represented against the same, but he kept silent. Thereafter worker was

transferred to Kusmunda Project, where, according to management policy, service record in the prescribed form was involved by giving the details by the worker himself so that he may know the details of himself and his family, which was communicated to the management. On 13-1-88 Hem Lal filled that form and declared his date of birth as 1-1-1937 and not 16-6-1944. Had his date of birth being 16-6-1944 he should have communicated to the management in the prescribed Form on 13-1-1988 to corroborate his case that the initial entry made in service record at Banki Colliery is wrong. Thereafter Hem Lal was further transferred to Laxman Open Cast Mine where Form B was prepared and his Photo was affixed, which bears the thumb impression of Hem Lal in the register maintained in which the date of birth is written as 1-1-1937. Therefore, there is no doubt that the worker himself declared his date of birth as 1-1-1937.

The worker did not put any efforts to get his date of birth corrected from 1-1-37 to 16-6-44. Moreover the worker has not produced any document or medical certificate to prove his date of birth as 16-6-44.

The argument of Sr. L.O. is based on the evidence on record. Therefore, I come to the conclusion that the date of birth as recorded in the service register is acceptable in law. The worker did not produce any proof in support of his claim that the date of birth as 16-6-1944. Therefore, there was no reason exists, to change the date of birth from 1-1-37 to 16-6-44. Action of the management, therefore is legal and justified, and the workman is not entitled for any relief. Award is passed accordingly.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 31 मई, 2004

का.आ. 1493.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. ई. सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी. (आर.) 163/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2004 को प्राप्त हुआ था।

[ सं. एल.-22012/549/95-आई.सी. (सी-II) ]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 31st May, 2004

S.O. 1493.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. CGIT/LC(R)/163/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL and their workmen, which was received by the Central Government on 28-5-2004.

[No. L-22012/549/95-IR (C-II)]

N.P. KESAVAN, Desk Officer



**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT,  
JABALPUR****CASE NO. CGIT/LC(R) (163)/96****Presiding Officer: Shrikant Shukla****Between :**

General Manager,  
Bisrampur Area, SECL.  
Post : Bisrampur Colliery,  
Dist. : Surguja (MP)

**AND**

Vice President,  
National Colliery Workers Federation;  
Post: Kumda, Bisrampur,  
Dist: Surguja (MP)

**AWARD**

The Govt. of India, Ministry of Labour vide their Order No. L-22012/549/95-I.R. (C-II) dated 21-08-1996 has referred the following issue for adjudication :—

“Whether the action of the management of Bisrampur Area SECL in not granting employment to the dependent of Late Shri Havalsai S/o Laxman, Loader, Jainagar Colliery who expired on 01-08-81 in harness is legal and justified? If not, what relief the dependent of Late Havalsai is entitled to?”

Government of India while issuing the order endorsed the copy to the Vice President, National Colliery Workers Federation, Post: Kumda, Bisrampur, Dist: Surguja (MP) containing the direction that Union should file a statement of claim with relevant documents, list of reliances and witnesses with the Tribunal within 15 days of the receipt of the Order of reference and also forward a copy of such statement to the opposite party, but the said Union has not yet filed the statement of claim. Shri Indrapal Pandey, Area Vice President of NCWE Union, however, sought 15 days time but even after the said period, Shri Indrapal Pandey has not filed any statement of claim. The Court issued registered notice No. 2574 dated 14-01-04 and informed him that date fixed in the Camp Court but, in spite of the said notice, the Union has not turned-up to file a statement of claim, therefore, the management was directed to file as to why the employment is not granted to the dependent of deceased worker.

The Management has filed its statement alleging therein that Shri Havalsai, the Worker, died in road accident on 01-08-1981 and his wife Smt. Roopani Bai moved a representation for providing employment to his son Asha

Ram on 13-07-89. When the case was investigated upon, it was found from School Leaving Certificate dated 21-10-1989 that the date of birth of Shri Asha Ram was 10-6-1972. Since Asha Ram was only of 9 years of age at the time of death of Shri Havalsai, therefore, according to the provisions of dying in harness, the employment could not be provided to him.

It is stated in the W.S. that according to the provisions of employment in case of providing job to the dependent dying in harness, the minor could not be appointed in the mines. The case could not remain open indefinitely to make the dependent to attain majority and in the circumstances Shri Asha Ram could not be provided employment.

The management has examined Shri Sanjay Kumar Das, Sr. P.O. of Bisrampur Area, who has proved the case the management. Mr. Das has proved that no application was moved by the dependents of Shri Havalsai for employment up to 12-7-1989. It was only on 13-07-1989 that wife of Late Havalsai moved an application for providing employment to the son of Late Havalsai whose date of birth was 10-06-1972 and according to rules he could not get the employment as per the provisions of providing employment to the dependent of deceased workman. In the circumstances, the Management of Bisrampur did not provide employment to the dependent of Late Havalsai and the same can not be termed as illegal or unjustified.

The management has filed Joint Bipartite Committee for Coal Industry's Circular No. CIL: JBCCI-V.I.I.No. (8/96)2627 dated 22nd February, 1996 i.e. paper No. 7 Wherein it is provided—

**“(III)**

In case of death either in mine accident or for other reasons or medical unfitness under Clause 9.4.0 of NCWA. If no employment has been offered and the male dependent of the concerned worker is 15 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualification when he attains the age of 18 years. During the period the male dependent is on live roster the female dependent will be paid monetary compensation as per rates I & II above (Clause 9.5.0(iii)).

From the above it is clearly made out that the dependent of Havalsai was Shri Asha Ram is not entitled to appointment on compassionate ground. In the circumstances, the management's action in not granting employment to the dependent of Late Havalsai is legal and justified.

The issue is accordingly answered.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 31 मई, 2004

का. आ. 1494.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.ई.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर [संदर्भ संख्या सी.जी.आईटी./एल.सी. (आर.) 166/97] को प्रकाशित करती है, जो केन्द्रीय सरकार, को 28-5-2004 को प्राप्त हुआ था।

[सं. एल-22012/218/96-आई आर (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 31st May, 2004

S. O. 1494.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/166/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of SECL and their workmen, received by the Central Government on 28-05-2004.

[No. L. 22012/218/1996-IR(C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JABALPUR

CASE NO : CGIT/LC/R/166/97.

SHRIKANT SHUKLA, Presiding Officer

Shri Tekdutta Tiwari S/o R.C. Tiwari,  
Gram : Pachira, Post : Surajpur,  
Distt : Surguja (MP).

AND

Sub Area Manager,  
Kumda Sub Area,  
PO : Kumda Colly,  
Distt : Surguja,  
13-5-2004 :

#### AWARD

The Government of India, Ministry of Labour vide its letter No. 22012/218/96/IR(M-II) dtd. 5-6-1997 referred the following dispute for adjudication to the CGIT, Jabalpur.

"Whether the action of the management of Kumda Sub Area of SECL, Bishrapur Area in terminating the services of Shri Tekdutta Tiwari, substitute Mazdoor, Kumda 7 & 8 Mines, is legal and justified? If not, to what relief is the workman entitled and from which date?"

The worker was sent notice by Regd. Post which has returned un-served with the endorsement that Shri Tekdutta Tiwari has died. No one has come forward on behalf of the worker.

The management has filed its written statement. Paper No. 5 alongwith photo copy of the documents. Examined Shri B. V. Potan, Sr. Personnel Officer. Heard the learned representative of the management and perused evidence on record.

The management has proved that the worker remained absent un-authorisedly without sanctioned leave or sufficient cause from 7-11-1993. He continued absenting in the year 1994 and 1995. Faced with the shortage of manpower and finding that the conduct of the worker amounted to misconduct as per clause 26.30 of the Certified Standing Orders the management had no option but to charge sheet the workman. The management accordingly on 9-5-1995 issued charge sheet for the gross misconduct of the workers. He was directed to file his explanation within 72 hours but the workman did not offer any explanation to the charge sheet.

The management appointed Shri K.P. Prasanna, Personnel Officer to enquire into the charges. The Enquiry Officer explained the enquiry proceedings to the workman and allowed him the service of a co-worker. The worker appointed Shri D. Mishra as a co-worker to defend his case.

The Enquiry Officer conducted the enquiry and fixed various dates for the purpose of collecting all the evidences. After collecting the witnesses and giving full opportunity to the workman to defend his case. The Enquiry Officer concluded his enquiry, hold the charges against the workman proved and forwarded his report to the Disciplinary Authority.

The Disciplinary Authority imposed punishment of termination of service w.e.f. 1-2-1996. It is relevant to mention here that the worker expired on 31-10-2000.

Under the circumstances, as mentioned above, I come to conclusion that the management's action of terminating the service of Shri Tekdutta Tiwari is legal and justified. The issue is, therefore, answered accordingly.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 31 मई, 2004

का. आ. 1495.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-262/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2004 को प्राप्त हुआ था।

[सं. एल-40025/14/2004-आईआर (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 31st May, 2004

**S. O. 1495.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-262/2001 of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom and their workman, which was received by the Central Government on 31-5-04.

[No. L-40025/14/2004-IR(DU)]

KULDIPRAI VERMA, Desk Officer

# ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AT HYDERABAD

### Present :

Shri E. Ismail, B.Sc., Presiding Officer

Dated the 12th day of April, 2004

INDUSTRIAL DISPUTE L.C.I.D. No. 262/2001

(Old I.D. No. 107/2001 Transferred from Industrial Tribunal-cum-Labour Court, Anantpur)

### BETWEEN :

Sri Medikurthi Venkata Ramana,  
S/o M. Subbanna,  
D. No. 14/346, Nadendla Mareppa  
Veedhi, Madanapalle,  
Chittoor District.

### AND

1. The General Manager,  
Telecommunications,  
Hyderabad
2. The Divisional Officer,  
Telecommunications,  
Tirupathi.
3. The Sub Divisional Officer,  
Telecommunications,  
Madanapalle . . . Respondents

### APPEARANCES :

For the Petitioner : M/s. M. Manohar  
Reddy & M.V. Prathap  
Reddy, Advocates  
For the Respondent : Sri R.S. Murthy,  
Advocate

### AWARD

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 by the Industrial Tribunal-cum-Labour Court,

Anantpur in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR (C-II) dated 18-10-2001 bearing I.D. No. 107/2001 and renumbered in this Court as L.C.I.D. 262/2001.

2. The brief facts as mentioned in the petition are: That the Petitioner was employed by the Respondent as NMR worker on daily wage rate basis from 1-10-81. His services were terminated from 1-5-87. No notice was issued to him. Nor wages in lieu thereof. Hence, he may be reinstated with back wages, continuity of service and all other attendant benefits.

3. A counter was filed stating that as a matter of policy engagement of casual labour depends with as per settled law the mere completion of one year on intermittent works would not confer any right for reinstatement. The Petitioner is put to strict proof for engagement from 1-10-81 to 30-4-87 and Sec. 25F is not applicable. Hence, the petition may be dismissed.

4. The Petitioner examined himself and marked Ex. W1 muster rolls, a bunch of 15 pages from 1981 to 1987. Ex. W2 is the legal notice. Ex. W3 is postal receipt. Ex. W4 is postal acknowledgement. Ex. W5 is also postal acknowledgement. Ex. W6 is reply given to the legal notice. In the cross-examination he deposed that he worked on the specified time bound works with reference to the work order and he was disengaged each time due to non-availability of work and provided work when it came available.

5. Sri K. Kadirappa, Sub-Divisional Officer, Telecom, Madanapalle deposed as MW 1 and deposed that the Petitioner is not entitled for reinstatement. In the cross-examination he deposed that they never tried to ascertain to find out the veracity of the signatures made in last column of Ex. W1 with the concerned SDOs though it was served along with the petition. No reply was given to Ex. W2. They never stated in their counter or in his chief examination that Ex. W1 is fake.

6. It is argued by the Learned Counsel for the Petitioner that once there is no contra evidence it will be presumed by the Hon'ble High Court that Ex. W1 is correct and true. Therefore, it is proved beyond doubt that the Petitioner worked from 1981 to 1987 and he was dismissed without any notice. Therefore, he may be reinstated with back wages.

7. It is argued by the Learned Counsel for the Respondent that the Petitioner has admitted by the Petitioner himself in the cross-examination that he worked intermittently on specified time bound works and was disengaged each time due to non-availability of work.

Therefore he is not entitled for any relief or any notice or notice pay under Sec. 25F.

8. It may be seen that the Petitioner has worked from 1-10-81 and admittedly worked intermittently. Therefore, it cannot be said that he worked continuously. Further from 1987 till he issued a notice on 20-1-2001, i.e. for almost 14 years he has slept. No doubt, limitation is not provided but keeping quite for almost a generation and then coming up with the case, there can only be one conclusion that he was otherwise engaged or gainfully employed. Therefore, the Respondents are ordered to employ the Petitioner as casual worker if and when vacancy arises taking his seniority as 1-10-81 with reference to his age. He shall be kept in the list of casual employees taking his seniority as 1-10-81. However, this shall apply only to future appointments and this order shall not disturb the appointments already made.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 12th day of April, 2004.

E. ISMAIL, Presiding Officer

#### Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW 1 : Sri M. Venkata Ramana	MW 1 : Sri K. Kadirappa
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#### Documents marked for the Petitioner.

- Ex. W 1 : Copy of muster roll from 1981 to 1987
- Ex. W 2 : Copy of legal notice dt. 20-1-2001
- Ex. W 3 : Postal receipt
- Ex. W 4 : Postal acknowledgement
- Ex. W 5 : Another postal acknowledgement
- Ex. W 6 : Reply to the legal notice dt. 5-2-2001

#### Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2004

का.आ. 1496.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण से, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कमकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 79/2002) का प्रकाशित करती है, जो केन्द्रीय केन्द्रीय सरकार को 31-5-2004 को प्राप्त हुआ था।

[ सं. एल-40012/158/2002-आई आर (डी.यू.) ]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 31st May, 2004

S. O. 1496.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 79/2002) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom and their workman, which was received by the Central Government on 31-05-04.

[ No. L. 40012/158/2002-IR(DU) ]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

**BEFORE SRI SURESH CHANDRA, HJS, PRESIDING  
OFFICER CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT HOTEL  
KISHOREE BUILDING, SARVODAYA NAGAR,  
KANPUR**

#### Industrial Dispute No. 79 of 2002

In the matter of dispute between :

Sri Anand Mohan Mishra  
S/o Sri Durga Prasad Mishra  
Village Bhansal Koyal, PO Padri Kala  
Unnao (UP)

AND

Department of Telecom  
Mall Road  
Kanpur

#### AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-40012/158/2002-IR (DU) dated 5-12-02 has referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of General Manager, BSNL, Kanpur in terminating the services of Sri Anand Mohan Mishra S/o Shri Durga Prasad Mishra workman w.e.f. 4-10-2001 is justified? If not, to what relief the concerned workman is entitled?”

2. On 18-9-03, when the case was taken up for hearing one Sri Suresh Kumar Rawat appeared for the workman and submitted before the tribunal that the workman has not come and he adduced no evidence. The workman therefore was debarred from adducing his evidence in support of his claim. The workman on 28-1-04 moved an application for summoning certain documents from the management in the case, but the said application was rejected by the tribunal on the ground that as the workman has already been debarred from adducing his evidence hence the application has become infructuous.

3. After rejection of the aforesaid application the workman moved another application which was received by post with prayer that he is not interested to prosecute his claim and that the reference may be decided as not pressed on technical ground. The ground mentioned in the application dt. 12-4-04 received in the tribunal on 16-4-04 are not sufficient mainly for the reasons that the representative representing the workman before the tribunal has categorically mentioned before the tribunal that he does not want to adduce any evidence in support of the claim of the workman where upon the case was fixed for evidence of the management. Management representative has also submitted before the tribunal that the management has to adduce no evidence. The case was fixed for arguments but none appeared from the side of the workman to argue the case.

4. In view of position explained above virtually it appears that it is a case of no evidence. The tribunal in these circumstances is left with no other option but to hold that the claim of the workman is liable to be rejected for want of evidence.

5. Accordingly the claim of the workman is rejected for want of evidence and it is held that the workman is not entitled for any relief pursuant to the reference made to this tribunal.

6. Reference is answered accordingly.

Dated: 26-5-2004

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 31 मई, 2004

का.आ. 1497.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 80/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2004 को प्राप्त हुआ था।

[ सं. एल-40012/157/2002-आई आर (डी.यू.) ]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 31st May, 2004

S.O. 1497.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 80/2002) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom and their workman, which was received by the Central Government on 31-5-04.

[ No. L-40012/157/2002-IR(DU) ]

KULDIP RAI VERMA, Desk Officer

## ANNEXURE

**BEFORE SRISURESH CHANDRA, HJS, PRESIDING  
OFFICER CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT HOTEL  
KISHOREE BUILDING, SARVODAYA NAGAR,  
KANPUR**

**Industrial Dispute No. 80 of 2002**

In the matter of dispute between :

Sri Om Narain Trivedi

S/o Sri Devi Shankar Trivedi

Village & Post Shanker Sarai

District Unnao (UP)

**AND**

Department of Telecom

Mall Road

Kanpur.

## AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-40012/157/2002-IR (DU) dated 5-12-02 has referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of General Manager, BSNL, Kanpur in terminating the services of Sri Om Narain Trivedi S/o Devi Shankar Trivedi workman w.e.f. 4-10-2001 is justified? If not, to what relief the concerned workman is entitled?”

2. On 18-9-03, when the case was taken up for hearing one Sri Suresh Kumar Rawat appeared for the workman and submitted before the tribunal that the workman has not come and he adduced no evidence. The workman therefore was debarred from adducing his evidence in support of his claim. The workman on 28-1-04 moved an application for summoning certain documents from the management in the case, but the said application was rejected by the tribunal on the ground that as the workman has already been debarred from adducing his evidence hence the application has become infructuous.

3. After rejection of the aforesaid application the workman moved another application which was received by post with prayer that he is not interested to prosecute his claim and that the reference may be decided as not pressed on technical ground. The ground mentioned in the application dt. 12-4-04 received in the tribunal on 16-4-04 are not sufficient mainly for the reasons that the representative representing the workman before the tribunal has categorically mentioned before the tribunal that he does not want to adduce any evidence in support of the

claim of the workman where upon the case was fixed for evidence of the management. Management representative has also submitted before the tribunal that the management has to adduce no evidence. The case was fixed for arguments but none appeared from the side of the workman to argue the case.

4. In view of position explained above virtually it appears that it is a case of no evidence. The tribunal in these circumstances is left with no other option but to hold that the claim of the workman is liable to be rejected for want of evidence.

5. Accordingly the claim of the workman is rejected for want of evidence and it is held that the workman is not entitled for any relief pursuant to the reference made to this tribunal.

6. Reference is answered accordingly.

Dated: 26-5-2004

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 31 मई, 2004

का.आ. 1498.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के पर्यवर्तन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/धर्म न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या जीआईटीएलसी/आर/62/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2004 को प्राप्त हुआ था।

[सं. एन-40012/131/96-आईआर (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 31st May, 2004

S. O. 1498.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/62/98) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Post and their workman, which was received by the Central Government on 31-5-2004.

[No. L-40012/131/96-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR

CAMP : BILASPUR

PRESIDING OFFICER : SHRIKANT SHUKLA

CASE NO : CGIT/LC/R/62/1998.

The Post Master

Head Post Office, Ambikapur.

PO : Ambikapur

Distt : Surguja (MP).

VERSUS

Smt. Khairun-nisha, Ex-sweeper,  
Emli Para, Ambikapur  
PO : Ambikapur,  
Distt : Surguja (MP).

### AWARD

The Govt. of India, Ministry of Labour vide their order No. L-40012/131/96/IR(DU) dated. 16-3-1998 referred the following issue for adjudication to the CGIT-cum-Labour Court, Jabalpur.

“Whether the action of the Post Master, Head Post Office, Ambikapur, Distt : Surguja (MP) in terminating the services of Smt. Khairun-nisha, Sweeper w.e.f. 5th Aug., 1995 is legal and justified? If not, to what relief the workman is entitled?”

The Government while referring the dispute for adjudication endorsed a copy of the order to Smt. Khairun-nisha with the direction that Statement of Claim with the relevant documents, list of reliances and witnesses be filed with the Tribunal within 15 days of the receipt of the order. It is believed that the order must have been received by Smt. Khairun-nisha but she did not file any Statement of Claim, documents etc. in CGIT, Jabalpur. In the interest of justice, the CGIT-cum-Labour Court, Jabalpur again issued a Registered A/d notice to Smt. Khairun-nisha which was served on her on 16-1-2004. But, in spite of service of notice Smt. Khairun-nisha did not turn up and did not file Statement of Claim and documents etc., therefore, the Court ordered the case to proceed Ex-parte against her on 5-2-2004. The opposite party was also served with the notice and they have filed Written Statement, Paper No. 6.

The Post Master has alleged that Smt. Khairun-nisha was not a regular employee of the Post Office. It has been alleged that she was engaged to sweep the post office for one or two hours a day. As the work of Smt. Khairun-nisha was not satisfactory and she used to remain absent for months together, therefore, another sweeper was engaged to sweep the floor.

The authroised representative of the Post Office, Sri D.K. Singh was present in the Court. He examined himself as witness on behalf of the Post Master and closed the evidence.

I have heard the learned representative of the Post Office and perused the office.

It is proved by the evidence on oath by Sri D.K. Singh that Smt. Khairun-nisha used to sweep the post office for about 1 hour or so. It is also proved that she was not regularly appointed Safai Karmachari as she was cleaning the post office for only 1 or 2 hours.

Shri D.K. Singh has also proved that she never cleaned the post office properly and never cleaned the

toilet and she used to remain absent without information. He has stated that since she was not regularly appointed postal employee and, therefore, no departmental action could be initiated against her. Since the post office was a public office and she was not properly cleaning the post office and the same was observed by the officers, therefore, there was no alternative than to stop taking work from her.

Smt. Khairun-nisha did not turn up to prove that she was a regularly appointed employee of the post office. She has also not proved that she regularly worked for 240 days before her disengagement. Therefore, there is no question of termination of her services. The post office action of her disengagement from part time sweeping is legal and justified. The issue is accordingly disposed of. The issue is thus answered accordingly.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 31 मई, 2004

का.आ. 1499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-9/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2004 को प्राप्त हुआ था।

[सं. एल-40025/12/2004-आईआर (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 31st May, 2004

S.O. 1499.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-9/2002) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 31-5-2004.

[No. L-40025/12/2004-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT  
AT HYDERABAD**

**PRESENT :**

Shri E. Ismail, B.Sc., LL.B.,  
Presiding Officer

Dated the 19th day of April, 2004

**INDUSTRIAL DISPUTE L.C.I.D. No. 9/2002**

(Old I.D. No. 42/99 Transferred from Industrial Tribunal cum Labour Court, Visakhapatnam)

Between :

Sri K. Appala Raju,  
S/o Appa Rao,  
D.No. 63-2-147,  
Indira Colony,  
Sriharipuram, Malkapuram,  
Visakhapatnam-11.

... Petitioner

AND

The General Manager,  
Telecom District,  
Visakhapatnam

... Respondent

**APPEARANCES :**

For the Petitioner : Sri G. Venkateswarlu,  
Advocate

For the Respondent : M/s. M. Ramakoti & M.  
Madhava Rao, Advocates.

**AWARD**

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 by the Industrial Tribunal-cum-Labour Court, Visakhapatnam in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 bearing I.D. No. 42/99 and renumbered in this Court as L.C.I.D. No. 9/2002.

2. The brief facts as averred in the petition are : That the Petitioner joined on 9-12-1991 under the Respondent on daily wages for the purpose of cable work of the Respondent. He worked upto 31-3-1993, he was retrenched from service w.e.f. 1-4-1993 without complying with the provisions of Sec. 25F. That he was neither given notice nor wage in lieu thereof. The seniority list of casual mazdoors of Visakhapatnam Telecom Department was not published. As per the provisions of Rule 77 of the Industrial Disputes (Central Rules), 1957. The Petitioner made several attempts for reinstatement. Ultimately, the Sub-Divisional Engineer, Phones, informed the Petitioner that he cannot be taken back to service because he was recruited after second cut off date and the only authority competent to order reengagement is the above mentioned employer. Accordingly, he gave a report to the Respondent. Accordingly he was asked to send the copies of service certificate given by the concerned officers on 4-8-1999. As such the Petitioner immediately submitted a letter dated 11-1-99 to the employer

for reinstatement. But so far no action is taken. The Petitioner's services were noted in a book maintained by the applicant in 18 pages which are herewith enclosed as enclosure number one and his pay for the month of March, 1993 was Rs. 1350/-. That he was continuously in employment for 441 days. Hence, he may be directed to be reinstated with continuity of service, protection of seniority, back wages etc.

3. A written statement was filed by the Management that the Petitioner is a casual mazdoor. The engagement of casual mazdoors is need based and they are disengaged after completion of work. No appointment order will be issued to them. That separate work orders specifying project work sanctioned such as laying of cables, erection of lines, wires ect. it is normally for a few days in a month for he whole of the month. After completion of this specific work in an area the field officers direct the casual mazdoors to approach another filed area depending on the availability of work. Hence, there is no question of oral termination. That after 31-3-1993 he never reported to duty. From April, 1993 he abandoned the work without any intimation. Suddenly on 13-7-99 the workman surfaced himself complaining of termination and claiming a post as if he was an appointee. The Petitioner again complained on every casual mazdoors who are alert and kept constant contact. That the filed units enquiring about the availability of work while the Petitioner absented himself for six years four months. He being a casual mazdoor has no right to claim any such right. Hence, the petition may be dismissed.

4. The Petitioner examined himself as WW1. That he used to work as mazdoor on casual basis. That he was appointed on 9-12-91. No appointment order was given by the Management. But he was informed orally. The General Manager, Telecom appointed him. He worked for 441 days from appointment till termination. He was not given any notice or pay in lieu there off. That his co-workers are still continuing with the Management like Sri Venkata Rao and others. That he submitted a representation on 11-1-99. They received his representation. Again he gave a representation on 22-7-99. The Management replied on 4-9-99 stating that service certificate to submitted for perusal. That on receipt of the service certificate on 4-8-99 he send the same which are Ex. W1 to Ex. W6. Ex. W7 is a bunch of 18 service certificates contained on one book. No reply is given. The work was perennial in nature.

5. In the cross-examination that he admitted that he did not write any letter from 31-3-93 till 11-1-99. The service certificate in Ex. W7 are made as Ex. W8 to W24. He denied that he has abandoned the work and that Ex. W19 and Ex. W20 are fabricated and went away

and surfaced after 6 years thereafter to get regularization in the Department.

6. The Respondent examined Sri. U. Rama Krishna as MW1 who deposed that he is working as Sub-Divisional Engineer (Legal), Visakhapatnam. He deposed that the Petitioner was engaged on casual basis for the purpose of assisting the line man and other staff. Depending upon the availability of work, they engaged casual labour. There is no continuity in the work. The Petitioner worked upto 31-3-93 with breaks. Ex. M1 is the documents which discloses the actual number of working days the Petitioner was engaged. That the Petitioner worked during September, 1992 to December, 1992 is not correct and he was never engaged. In Ex. W7 the M.R. number is shown as 0059 but actually it is 0562 and B. Apparao was worked. Ex. M2 is the muster roll bearing No. 0562 for the month of September, 1992. So several exhibits filed by the Petitioner are forged. That they have not given notice or notice pay or publication in newspaper. The witness adds that it is not necessary as he is casual employee. It is not true to suggest that he has been representing orally.

7. It is argued by the Learned Counsel for the Petitioner that the Petitioner has been engaged from 9-12-91 to 31-3-93 and his wages drawn for the month of March, 1993 were Rs. 1350/-. That he has worked for 441 days. That afterwards they did not provide any employment. They asked for his number of days worked and he submitted. Still no action was taken. He submits that Ex. W7 which contains Ex. W8 to W23 shows that he has worked upto 14-2-93 and Section. 25 F has not been complied with and therefore he is entitled for reinstatement.

8. It is argued by the Learned Counsel for the Respondent that actually he himself absconded from duty without giving any reason and issuing a notice or putting on the notice board or publishing in a newspaper is not called for a casual employee and he has woken up even according to him on 11-1-99 after a gap of six years to gain regularization because his co-workers are working. Hence, he is not entitled for any relief.

9. It may be seen that the Petitioner even if his contentions are taken as correct worked up to 31-3-93, there is nothing on record to say that he did anything till 11-1-99. He also does not mention in Ex. W1, the First notice given by him on 11-1-99 that he approached the Department previously atleast by making oral representations. So it can be safely concluded that he has woken up after a gap of 6 years and perhaps in those 6 years he was gainfully working some where. It is pure abandonment of service and when a casual worker



abandons service and does not approach the Department for a period of six years it can be safely concluded that he was not interested in the continuation of service. Hence, I am of the opinion that he is not entitled for any relief except that in future if any appointments are made the Petitioner shall be given preference over others taking his date of appointment as 9-12-91, however, a word of caution, this shall not disturb the position of casual labourers already working. It is only for future appointments of casual labourers.

Award passed according. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of April, 2004.

E. ISMAIL, Presiding Officer

#### Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW 1 : Sri K. Appala Raju	MW 1 : Sri U. Rama Krishna

#### Documents marked for the Petitioner

- Ex. W 1 : Copy of representation of WW1 dt. 11-1-99
- Ex. W 2 : Postal acknowledgement
- Ex. W 3 : Copy of representation of WW 1 dt. 22-7-99
- Ex. W 4 : Copy of Lr. No. R. Evidence/CM Corr/97-99/  
KW/18 dt. 4-8-99
- Ex. W 5 : Copy of representation of WW1 dt. 7-8-99
- Ex. W 6 : Postal acknowledgement
- Ex. W 7 : Service certificate from 9-12-91 to 31-12-91
- Ex. W 8 : Service certificate from 1-1-92 to 31-1-92
- Ex. W 9 : Service certificate from 1-2-92 to 29-2-92
- Ex. W 10 : Service certificate from 3-3-92 to 25-3-92
- Ex. W 11 : Service certificate from 26-3-92 to 31-3-92
- Ex. W 12 : Service certificate from 1-4-92 to 30-4-92
- Ex. W 13 : Service certificate from 11-5-92 to 31-5-92
- Ex. W 14 : Service certificate from 1-6-92 to 30-6-92
- Ex. W 15 : Service certificate from 16-7-92 to 31-7-92
- Ex. W 16 : Service certificate from 1-8-92 to 31-8-92
- Ex. W 17 : Service certificate from 1-9-92 for 30 days
- Ex. W 18 : Service certificate from 1-10-92 to 30-10-93
- Ex. W 19 : Service certificate from 1-11-92 to 30-11-92

- Ex. W 20 : Service certificate from 1-12-92 to 31-12-92
- Ex. W 21 : Service certificate from 1-1-93 to 31-1-93
- Ex. W 22 : Service certificate from 15-2-93 to 28-2-93
- Ex. W 23 : Service certificate from 1-2-93 to 14-2-93
- Ex. W 24 : Service certificate for 24 days

#### Documents marked for the Respondent

- Ex. M 1 : Working days particulars of WW1
- Ex. M 2 : Copy of Muster roll bearing No. 0562
- Ex. M 3 : Copy of Muster roll bearing No. 0563
- Ex. M 4 : Copy of Muster roll bearing No. 0572
- Ex. M 5 : Copy of Muster roll bearing No. 0586

नई दिल्ली, 31 मई, 2004

का. आ. 1500.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-11/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2004 को प्राप्त हुआ था।

[ सं. एल-40025/13/2004-आई आर (डी.यू.) ]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 31st May, 2004

S. O. 1500.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-11/2002 of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 31-5-04.

[No. L-40025/13/2004-IR (DU)]

KULDIPRAI VERMA, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AT HYDERABAD

#### PRESENT :

Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 19th day of April, 2004

INDUSTRIAL DISPUTE C.L.D. No. 11/2002

**(Old I.D. No. 46/99 Transferred from Industrial  
Tribunal-cum-Labour Court, Visakhapatnam)**

**Between :**

Sri Nagulapalli Frasad,  
C/o Sri R. Rama Rao,  
Advocate.  
Anakapalle.

Visakhapatnam District

... Petitioner

**AND**

1. The Chief General Manager,  
Telecom.  
Hyderabad.

2. The Assistant Engineer,  
Coaxial Cable Project,  
Rajahmundry.

... Respondents

**Appearances :**

For the Petitioner : M/s. R. Rama Rao & A.  
Venkateswara Rao, Advocates.

For the Respondent : M/s. M. Ramakoti & M. M.  
Madhava Rao, Advocates.

**AWARD**

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 by the Industrial Tribunal-cum-Labour Court, Visakhapatnam, in view of the judgment of the Hon'ble Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation in India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 bearing I.D. No. 46/99 and renumbered in this Court as L.C.I.D. No. 11/2002.

2. The brief facts as mentioned in the petition are : That the Petitioner worked as casual mazdoor known as line staff and Group 'D' Employees in the Employers' office mentioned above. He worked under 2nd Respondent for a period of 304 days. He joined on 20th May, 1991 and worked in the cable lines of Bikkavolu for some time and at Anaparthi, Bobbaralanka and Rajahmundry for remaining period upto 25-3-92, when he was terminated from service. He was issued a muster roll note book. His services were terminated without any notice or compensation. He was drawing Rs. 700/- per month at the time of his termination from service. He issued a notice on 26-11-99. Hence, he may be reinstated with back wages.

3. The 2nd Respondent filed a written statement stating that it is not known whether the Petitioner has joined the service on 20-5-91 and worked on cable lines

at Bikkavole, Anaparthi, Bobbarlanka and at Rajahmundry upto 25-3-92. The allegation that he worked for 304 days is also denied. That no muster roll note book was issued to the Petitioner at any time by second Respondent office, much less the note book enclosed with the application by the Petitioner. The allegation in para 4 of the application is not true. The Petitioner was not engaged by this Respondent at any time and hence, the question of termination does not arise. In the notice the Petitioner alleges that he has worked under J. E.C. C. P., Hyderabad and A. E. Coaxial Cable Project, Hyderabad. In fact, the said J. E. C. C. P., Hyderabad and A. E. Coaxial Cable Project never attached to the Respondents. The Petitioner unnecessarily dragged the Assistant Engineer, Coaxial Cable Project, Rajahmundry, to the Court. The Petitioner never worked even as a casual labour. It is a false claim and hence, the petition may be dismissed.

4. The Petitioner filed rejoinder stating that the Petitioner has worked under 2nd Respondent as the muster roll issued to the Petitioner shows the number of days worked wherein the Mr. M. Venkatarao, S. I. O., of Bikkavolu, acknowledged the same. One mazdoor who worked with Petitioner one Sri B. Pydiraju, Lineman, is now working as regular mazdoor at Rajahmundry. That the workman worked in different places in work order Nos. 80, 104, 112, 140, 149, 183, 193, 219, 238, 249, 371, 381, 404, 428, 452, 469 and 483. The J. E. C. C. P., Hyderabad and A. E., Coaxial Cable Project, Hyderabad are one and the same. Hence, he prays that the reliefs may be granted as prayed for.

5. The Petitioner examined himself as W.W.1 and deposed to the said facts. Ex. W1 is the muster roll register certified by the second Respondent. Ex. W2 is the office copy of the registered notice dated 26-11-90. By the date of termination he was getting Rs. 1200/- per month. In the cross-examination he deposed that there is no signatures of the paying officer in Ex. W1. He denied that Ex. W1 is a fabricated one. He does not know if there are no work orders, registers nor payment registers. He did not file any muster rolls signed by Assistant Engineers or Divisional Engineer. In the re-examination he deposed that Ex. W1 was signed by the person under whom he worked.

6. Sri P. Appala Naidu, Electrician deposed as WW2. That the Petitioner was lying the cable at Anaparthi. He never worked along with the Petitioner in Telecom Department. He used to work in Keseni Transport Service. That he used to reside in the side by side room. In the cross-examination he deposed that during the year 1992 he worked in Keseni Bus service. He cannot give the door number of the house at

Anaparthi where he lived. That house belongs to Narayana Murthy. He does not know the particulars of the land lord. He does not know in which wing the Petitioner worked nor under whom he worked while he was lying the telephone wire or cable works. The Petitioner is his friend.

7. Sri G. Bhaskar Rao, Sub-Divisional Engineer deposed as MW1 stating that during 20th May, 1991 and 20th May, 1992 he worked as Junior Telecom Officer in the said Coaxial Cable Project, Rajahmundry. The workman was never engaged as casual mazdoor. Ex. W1 containing 20 muster rolls was not maintained or issued by the Department or J. T. O., they do not contain the signatures of the concerned J.T.O or the counter signatures of Assistant Engineers. These muster rolls were neither issued nor maintained by the Department or any concerned official. There was no Sub-Inspector by name M. Venkata Rao and there is no possibility of Sub-Inspector working as such in their Department. Except work order No. 80 issued by their Department no work order under Ex. W1 was issued by their Department. The work orders in Ex. W1 are not correct. Ex. M1 is the attested copy of the work order No. 80 for the period from 1-4-91 to 30-4-91. Enclosure to the above signature statement of workman is Ex. M2. Ex. M3 is the attested copy of the enclosure to the above signature statement of the workman engaged.

8. In the cross-examination he deposed that he has not signed the counter in the main case. That the documents would be destroyed after 5 years. Accidentally some of the attested copies found in the record of which the attested copies available they were produced.

9. It is argued by Learned Counsel for the Petitioner that the Petitioner having worked from 20-5-1991 to 25-3-92 and when suddenly he was retrenched without giving notice or notice pay. Hence, he may be reinstated with back wages.

10. It is argued by the Learned Counsel for the Respondent that the petitioner never worked. He has produced all false documents and he could not be reinstated.

11. It may be seen that even if what all the Petitioner has stated is true according to him he was not given the job from 25-3-92 and simply stating in Ex. W2 notice dated 26-11-99 that several requests were made to provide employment does not seem to be convincing. A man cannot remain unemployed for several years. He may be working somewhere and suddenly woken up after 7-1/2 years. No doubt no limitation is there. But still one has to see the situation. Even if what all he stated is taken as true he has abandoned his service and for

every casual employee the newspaper notification, notice etc., cannot be put on the board. It will cause lot of inconvenience to the Respondent. So if he does not come they will take another. Hence, I am of the opinion that he is not entitled to any relief except that in future if any appointments are made the Petitioner shall be given preference over others taking his date of appointment as 20-5-1991. However, a word of caution, this shall not disturb the position of the casual labourers already working. It is only for future appointments of casual labourers.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of April, 2004.

E. ISMAIL, Presiding Officer

#### Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1 : Sri N. Prasad	MW1: Sri G. Bhaskar Rao
WW2 : Sri P. Appala Naidu	

#### Documents marked for the Petitioner

- Ex. M 1 : Muster roll register.  
Ex. M 2 : Copy of registered notice dt. 26-11-90.

#### Documents marked for the Respondent

- Ex. M 1 : Attested Copy of work order No. 80 for April, 1991.  
Ex. M 2 : Attested Copy of enclosure to Ex. M1 showing engagement workers.  
Ex. M 3 : Attested Copy of enclosure to Ex. M1 showing engagement workers.  
Ex. M 4 : Attested Copy of work order No. 88 for September, 1991.  
Ex. M 5 : Attested Copy of enclosure to Ex. M4 showing engagement workers.  
Ex. M 6 : Attested Copy of work order No. 89.  
Ex. M 7 : Attested Copy of enclosure to Ex. M6 showing engagement workers.  
Ex. M 8 : Attested Copy of work order No. 11.  
Ex. M 9 : Attested Copy of enclosure to Ex. M8 showing engagement workers.  
Ex. M 10 : Attested Copy of work order No. 11.  
Ex. M 11 : Attested Copy of enclosure to Ex. M10 showing engagement workers.

नई दिल्ली, 7 जून, 2004

का. आ. 1501.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसूर मिनेरलस लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट (संदर्भ संख्या 66/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-6-2004 को प्राप्त हुआ था।

[सं. एल-29012/58/2000-आई आर (विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 7th June, 2004

S.O. 1501.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mysore Minerals Limited and their workman, which was received by the Central Government on 7-6-2004.

[No. L-29012/58/2000-IR (M)]

B.M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
“SHRAM SADAN”  
III MAIN, III CROSS, II PHASE, TUMKUR ROAD,  
YESHWANTHPUR, BANGALORE 560022

Dated, 12th May, 2004

#### PRESENT:

Shri A.R. Siddiqui  
Presiding Officer  
C.R. No. 66/2000

#### I Party

Shri H. Venkatesh  
S/o Yellash  
Valegere Post & Vill.  
Nanjangud Taluk,  
Mysore

#### II Party

The Chairman & Managing  
Director,  
Mysore Minerals Limited,  
No. 39, M.G. Road,  
Bangalore-560001

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-29012/58/2000/IR (M) dated 7th September, 2000 for adjudication on the following Schedule :—

#### SCHEDULE

“Whether the action of the management of Mysore Minerals Ltd. in terminating the services of Shri H. Venkatesh, Ex-Mazdoor of Asuli Manganese Mines is justified? If not, to what relief the workman is entitled?”

2. In this case a notice issued to the first party workman by RPAD returned duly served and the Court received the AD slip of the service of the said notice on the first party. The Order Sheet dated 5th October, 2001 disclosed that the first party was present before the Court and Shri SVS had undertaken to file Vakalat on his behalf. Thereafter 2nd party was served and made an appearance to the Court through Counsel. It can be seen from the order sheet that subsequent to 5-10-2001, case under went several adjournments giving opportunity to the workman to put forth his claim Statement but he failed to do so. On 5-4-2004 when the case was taken up for hearing, the first party and learned Counsel Shri SVS both remained absent and case was adjourned for any Counter Statement to be filed by the Second Party giving the date as on 10-5-2004. On that date again both the parties remained absent, Counter Statement was not filed and therefore, the matter stands for award.

3. As seen above, despite the fact that the proceedings were pending before the Court for more than a period of 3½ years giving opportunity to the first party to file his claim statement, it was not done by him even as on today. This conduct on the part of the first party would lead to an inference that he is no more interested in prosecuting the case. Although as per the point of reference the management was supposed to justify the correctness and legality of the order terminating the services of the first party, it could not have been done by the Second Party unless there was a Claim Statement giving out the grounds challenging the termination order by the first party. Since the first party did not choose to file Claim Statement despite the notice of reference and thereafter his appearance before the Court, the only conclusion to be drawn would be that he has lost interest in the case.

4. In the result there is no point in keeping the proceedings any more pending. Hence the following order:

#### ORDER

The reference is rejected for non prosecution. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 12th May, 2004).

A. R. SIDDQUI, Presiding Officer

नई दिल्ली, 31 मई, 2004

का. आ. 1502.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कर्मचारी राज्य बीमा निगम, अस्पताल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या आई.डी./27/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2004 को प्राप्त हुआ था।

[सं. एल-15012/3/93-आई आर (विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 31st May, 2004

**S.O. 1502.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. ID/27/95) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of E.S.I.C. Hospital and their workman, which was received by the Central Government on 31-5-2004.

[No. L-15012/3/93-IR (M)]

B.M. DAVID, Under Secy.

**ANNEXURE**

**BEFORE THE PRESIDING OFFICER: CENTRAL  
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT-II,  
RAJENDRA BHAWAN, GROUND FLOOR,  
RAJENDRA PLACE, NEW DELHI**

**I.D. No. 27/95**

**Shri R.N. Rai, Presiding Officer**

**In the Matter of:—**

**Lalit Kumar**

*Versus*

**Management of E.S.I.C. Hospital**

**AWARD**

The Ministry of Labour by its letter No. L-15012/3/93-IR(VIVIDH) Central Government Dt. 8-2-1995 has referred the following point for adjudication. The point runs as hereunder:—

“Whether the termination of the services of Shri Lalit Kumar, Nursing Orderly, by the Medical Superintendent, Employees State Insurance Hospital, Delhi, is justified? If not, to what relief the workman is entitled to?”

The claimant has filed statement of claim. In his statement of claim, he has stated that the Selection Committee constituted for the above post had considered him for the above post on daily rated basis and he had subsequently joined the services of the Management of the ESI Hospital, Shahdara, Delhi-110032.

That in the afternoon of 30-09-1991, the workman was suddenly and surprisingly told that henceforth he need not come to the Hospital as his services stand terminated w.e.f. 1-10-1991 and onwards.

That no notice was issued to this workman for the termination of his services from his post of the Nursing Orderly as per Section 25-F of the Industrial Disputes Act, 1947. In the statement of claim itself, certain rulings have been cited though the rulings should not be made part of the claim or the pleadings.

Claim 1995 LLR 187(Bm.), 1976 (33) FLR 153 : 1976 LAB IC 999, 1995-II LLJ 1092, 1991-II LLJ 534 (P&H), 1994 (68) FLR 386 (All.), 1994 LLJ 1941 and many others.

The Opposite Party has filed written statement and in the written statement, his actual working days have been given. He has worked for 48 days in the year 1990. In 1991, it has been stated that the management/ESI Corporation stopped the practice of daily wage employment in the cadre of Nursing Orderlies and no such employment was made on or after 31-3-1992. The post of Nursing Orderlies in the ESI Corporation have been filled in after recruiting suitable persons as per Recruitment Regulations. His services were not terminated.

The claimant has filed rejoinder. In his rejoinder, he has emphatically denied the statement of written statement and has asserted that he should get the benefit of Section 25(F).

The Rule of last come first go is not inflexible. In view of AIR 1980 SC 1454, this law of the Apex Court has not been followed. In 1981 3 SCC 225, 1981 SCC (L&S) 478, 1989 SCC 97 : 1989 SCC (L&S) 565, 1982 1 SCC 645 1982 SCC (L&S) 124. In the written statement, it has been categorically mentioned that he was a purely temporary employee and he has not completed 240 days work so 25(f) is not attracted.

Heard arguments from both the sides. It was argued from the learned counsel of the workman that the workman deserves to be re-instated as he has done 235 days work. It is admitted that the workman has worked for 235 days only and i.e. within two years so he has not worked for 240 days in any calendar year. From the perusal of the record, it is quite clear that in December 1991, he has worked for one day only. He has not worked for 240 days in any one calendar year.

The learned counsel from the management referred to Order dt. 13-2-1991 in which it has been written that the engagement is effective only for 89 days from the first date of engagement, but in case of extension, will not exceed 239 days (including broken periods of service) during the validity of the panel drawn out of the candidates from employment exchange. It has also been certified that the above engagement of daily rated workers have been made in accordance with the instructions issued on the subject by the Headquarters office.

It has also been stated in letter dt. 11-3-1991 that the engagement is purely on casual basis and are liable for termination at any time without assigning any reason or giving any notice. They will have no right of regularisation. It has not been shown that any employee appointed on casual basis has been retained. Since the workman has not completed 240 days in a calendar year, as such, Section 25(f) is not attracted.

The workman has accepted in his oral evidence that he was not aware of anything happening in the hospital since his termination. As such, the employees who were selected for daily wages have not been retained and therefore, appointments have been made according to the rules laid down in that behalf.

From the side of the management, my attention was drawn to 1993 LLR 524 (Rajasthan) : It has been held that

S 2(oo) is having its application, status of the workman concerned, whether the workman is permanent or temporary, officiating or probationer, casual or daily wage earner or part time, is quite irrelevant.

In 1995 LLR 187, it has been held that the provisions of S. 25F are of mandatory nature. Where they are not complied with order of termination of service would be considered illegal.

In 1979 F55 FJR 210, it has been held that S. 25F is mandatory.

In 1987 (17) FLR 120, it has been held that the S. 25F is only attracted when the employee's services have been terminated in contravention of S. 25F.

It has been held that in case retrenchment compensation is not paid, Section 25F is attracted but Section 25F is attracted only when there is a service of 240 days in a calendar year.

I have gone through all the citations and from perusal of the law cited by the workman in the present circumstances, the citations are not applicable. The appointment was made on daily wage basis. There was no pay fixed. The appointment was temporary and 240 days have not been completed. He has worked in 1990 for 48 days, and in 1991, 187 days, so he has not completed 240 days. He has not established by his oral evidence that the persons recruited along with him have been retained. As he has admitted in his cross that he did not know anything about the matter after September 1991.

In 1981 SC 1253, it has been held that in Section 25(f), it is the duty of the workman to show that he has worked for one year. This workman has not worked for one year either in the year 1990 or in the year 1991. This workman has failed to establish that he worked for more than 240 days in a calendar year. As such, in view of the law cited by the management, Section 25F of the ID Act is not attracted and the workman can get no benefit. The citations referred to by the workman are not applicable in the facts and circumstances of the case, as such, the workman is not entitled to get any relief as asked for. The Hospital is not an industry and in view of this fact also, the case of the workman is not made out.

The award is replied thus :—

The termination of the services of Shri Lalit Kumar, Nursing Orderly, by the Medical Superintendent, Employees State Insurance Hospital, Delhi, is justified. The workman is not entitled to get any relief as asked for.

Dated : 20-05-2004.

R.N. RAI, Presiding Officer

नई दिल्ली, 4 जून, 2004

का. आ. 1503.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साऊथ इंडियन बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, एर्नाकुलम

के पंचाट (संदर्भ संख्या आई डी (केन्द्रीय) 50/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-6-2004 को प्राप्त हुआ था।

[सं. एल-12012/335/98-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 4th June, 2004

**S.O. 1503.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [ID(Central) 50/98] of the Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of South Indian Bank Limited and their workman, which was received by the Central Government on 4-6-2004.

[No. L-12012/335/98-IR (B-I)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(In the Labour Court, Ernakulam)

(Tuesday, the 30th day of March, 2004)

#### PRESENT:

Smt. N. Thulasi Bai, B.A.L.L. B.,  
Presiding Officer

#### INDUSTRIAL DISPUTE NO. 50/1998 (CENTRAL)

#### Between

The Chairman, South Indian Bank Limited,  
Registered Office, Thrissur-680001, Kerala State.

#### And

The workman of the above concern represented by the General Secretary, South Indian Bank Employees Association, Central Office, Post Office Road, P.B. No. 131, Thrissur.

#### REPRESENTATION:

Shri Anil Kumar, .....For Management  
Advocate,  
Cochin-17.

Sri. M. Pathros Mathai, .....For Workman's Union  
Advocates  
Banerji Road,  
Cochin-18

#### AWARD

This reference was made by the Central Government as per letter No. L-12012/335/98-IR(B.I.) dated 19-11-98. The dispute is between the management of South Indian Bank Limited, Kerala State and their Workman Sri Parameswaran. The dispute referred is:

"Whether the management of South Indian Bank, Thrissur is justified in dismissing from services of Shri P. Parameswaran, Ex-cashier from their Valancherry Branch, w.e.f. 10-1-1997? If not, to what relief the concerned workman is entitled to?"

In the reference the management is represented by the Chairman South Indian Bank Limited, Thrissur and the workman is represented by the South Indian Bank Employees Association.

2. On receipt of notices issued from this court the union and management appeared through counsel.

3. The Union filed a claim statement raising the following claims:— Sri. P. Parameswaran, the workman involved in the present case is a member of the union. He was working as a cashier in the Valancherry Branch of the Management Bank. His career was unblemished and there was no complaint against him. While so he was served with a memo alleging that he had received an amount of Rs. 12915/- from a customer M/s Nissar Clinic and Nursing Home with a Challan in which the amount was mentioned as Rs. 10975/- and thereby defrauded the customer to an extent of Rs. 2,000 and misappropriated the amount. It was also alleged that the workman had destroyed the cash challan of the said transaction with the fraudulent intention of concealing the act of misappropriation and act prejudicial to the interest of the bank. As the allegations were baseless the workman denied the charges. Thereafter the management attempted to get an admission from the workman using pressure tactics. As their attempts were failed disciplinary action was initiated against the workman. The intention of the management was to appease a customer even at the expense of an innocent employee. An enquiry was conducted through Sri. D Ramkrishnan Nair, Senior Manager of the Bank into the charges. The enquiry officer was biased and was acting under instructions from the management. The enquiry was conducted in violation of the principles of natural justice. The workman was not allowed to verify the documents which were proved the guilt of the workman in spite of which the enquiry officer found the workman guilty of the charges. So the findings of the enquiry officer are perverse. Accepting the enquiry report the management dismissed the workman from service. Though an appeal was filed it also ended in dismissal. The punishment of dismissal is disproportionate to the charges alleged. So the union prays for passing an award directing the management to reinstate the workman with backwages, continuity in service and other consequential benefits.

4. Management filed a written statement raising the following contention:— Sri Parameswaran, the workman involved in the present case was employed as Cashier at the banks branch at Valancherry. A charge-sheet was issued to him and after considering his explanation an enquiry was conducted into the charges. As the explanation was not satisfactory an enquiry was conducted by one of the senior officers of the bank. The acts of misconduct charge against the workman was that an amount of Rs. 2000 remitted by a customer was defrauded and misappropriated by him and the Challan for remittance of the amount was destroyed by him and the Challan for remittance of the amount was destroyed by him with the fraudulent intention of concealing the act of misappropriation. The workman was allowed to participate

in the enquiry through his representative, an officer bearer of his union. He was given full opportunity to cross-examine the witnesses and to adduce evidence. Accordingly the witnesses examined from the management's side were cross examined by the union representative. No oral or documentary evidence was adduced by the workman in the enquiry. On analysing the evidence the enquiry officer found the workman guilty of the charges. A second notice was given to the workman in respect of the proposed punishment after serving a copy of enquiry report. Considering the grave and serious nature of the misconduct proved the workman was dismissed from service. The action was got approved through this court since I.D. 15/95 (C) was pending. The list of documents and witnesses were given to the workman before the commencement of the enquiry and the documents produced in the enquiry were allowed to be perused by the workman and his representative and witnesses were cross examined on those documents. Thus it is clear that the enquiry was conducted in accordance with the principles of natural justice and the findings of the enquiry office are based on evidence on record. It is claimed by the management that in case the enquiry is found to be defective the management may be given opportunity to prove the acts of misconducts committed by the workman by adducing evidence before this court. So the management prays for passing an award upholding its contentions and rejecting relief to the workman.

5. A rejoinder was filed by the union traversing the contentions raised in the written statement and reiterating the claims in the claim statement.

6. As the dismissal of the workman was pursuant to a domestic enquiry, the propriety of the enquiry has to be considered in the first instance. For that purpose enquiry officer was examined as MW1 and the enquiry file was marked as Ext. M 1.

7. No oral or documentary evidence was adduced from the workman's side.

8. Thus the points arise for determination are:

1. Whether the enquiry conducted through MW1 is valid and proper?
2. Whether the findings of the enquiry officer are based on evidence on record?
3. Whether the dismissal of the workman from service is justifiable?
4. The relief, if any, due to the workman?

9. Points 1 & 2:— Since the punishment of dismissal imposed on the workman is pursuant to a domestic enquiry through MW1 who was the Senior Manager of the management Bank, the first aspect to be considered is that whether the enquiry was conducted in accordance with the principles of natural justice. As regards the enquiry it is alleged in the claim statement that the enquiry officer was biased and was acting under the instructions from the management and the proceedings were conducted in violation of the principles of natural justice. The workman

was not allowed to peruse the documents which were in the possession of the management. But it was contended by the management that the workman was given full opportunity to participate in the enquiry through the union representative, which he availed by cross examining the management witnesses. On going through the enquiry proceedings it can be found that in the enquiry the workman was represented by a union leader and he was given full opportunity to cross examine the management witnesses and accordingly the union representative cross examined them for and on behalf of the workman. It is alleged by the union that the workman was not allowed to peruse the documents which were in the possession of the management, but it is evident from the proceedings of enquiry that copy of witness list and document list were given to the workman and the documents were produced before the enquiry officer which were allowed to be perused by the workman and his representative. There was no request before the enquiry officer demanding copy of any particular document or permission for perusal of the same. The documents were marked from the management's side in the presence of the workman and his representing which were not objected by them. The management witnesses were cross examined by the union representative on behalf of the workman. Thereafter the workman was asked whether he has any evidence to adduce, then he replied in the negative and accordingly the evidence was closed. Thereafter chance was given to both sides to present their arguments. Thus it can be found that sufficient opportunity was provided by the enquiry officer to the workman and his representative to participate in the enquiry and accordingly they have participated also. There was no allegation of bias against the enquiry officer during the course of enquiry. So it can be found that the enquiry conducted in the present case through MW1 is valid and proper. Then the question to be determined is that whether the findings of the enquiry officer are based on evidence on record. The allegation against the workman was that the workman had misappropriated an amount of Rs. 2000/- remitted by a customer and the Chalan for remittance of the amount was destroyed by him in the fraudulent intention of concealing the act of misappropriation. It is not disputed that a customer M/s. Nissar Clinic and Nursing Home had remitted the amount along with the chalan in which the amount was mentioned as Rs. 10,975/- and the workman had accounted the amount as Rs. 10,975/- not disputed. But the case of the customer, basing on which the management also alleges that actually an amount of Rs. 12,975/- was paid to the workman being cashier of the bank for remittance, along with a chalan in which the amount was mistakenly mentioned as Rs. 10,975/- and the workman misappropriated Rs. 2000/- by defrauding the customer. But the case of the workman is that the money entrusted to him along with the chalan from the above referred customer was Rs. 10,975/- only and so he credited the same in their account and he never misappropriated any amount as alleged. The explanation of the workman in that respect is that the intention of the management was to satisfy the customer M/s. Nissar Clinic

and Nursing Home at the expense of the workman who is an innocent employee. It is settled position of law that the standard of proof required in a domestic enquiry is only preponderance of probabilities and it is not necessary that there should be direct evidence. If the circumstantial evidence satisfies the test of preponderance of probabilities it will be sufficient.

9. It cannot be disputed that in a case of fraud and misappropriation there can be no direct evidence to prove the guilt. So the only course opened to the management is to prove the case through circumstantial evidence. In the present case five witnesses were examined from the management's side and 14 documents were marked in the enquiry to prove the circumstances leading to the misconducts alleged against the workman. So whether the circumstantial evidence adduced are sufficient to prove the guilt of the workman has to be looked into.

10. The allegation against the workman is that on 14-11-1995 an amount of Rs. 12,975/- was received by the workman from the representative of M/s. Nissar Clinic and Nursing Home with a chalan wherein the total of the amount both in words and figures was wrongly mentioned as Rs. 10,975/- for remittance towards the current deposit account of the above party. The workman affixed the cash receipt seal on the chalan and handed over to the representative for giving to the section clerk attending C.D. section without revealing the discrepancy in the total of the amount written in the chalan and the actual amount received from the party and misappropriated the excess amount of Rs. 2000/-. It is the further allegation that the workman destroyed the cash chalan referred in charge No. 1 with the fraudulent intention of concealing the above act of misappropriation. It is the case of the workman that he did not receive any excess amount from the customer and the actual amount surrendered was included in the concerned register and sent the chalan to the concerned clerk for entering in the register and then from there to the Assistant Manager for making necessary entries and keeping the same. He denied the allegation of removal of chalan also. While considering the evidence adduced before the enquiry officer, in the light of the allegations raised against the workman, the most important aspect to be referred is the non-examination of the office boy who took the amount from the customer to the bank with the chalan had been missed. It is true that from the evidence adduced before the enquiry officer it proved that Sri. V. Narayanan who was examined as MW1 was working in Nissar Clinic and Nursing Home during the relevant period and on 14-11-96 he sent an amount of Rs. 12,975/- with the cash slip wherein the denominations of the amount were correctly included, but there was a mistake in totaling the amount that is instead of 12,975/- it was written as Rs. 10,975/-. He identified the mistake when the office boy who went to deposit the amount brought the counter foil with the entry of Rs. 10,975/- and immediately he contacted the Bank Authorities to identify the actual amount credited in their own account and it was intimated by the bank that the amount credited to the account was only Rs. 10,975/- immediately he enquired about the entry in the chalan slip



about the amount and it was informed that the slip was found missing. He rushed to the bank and got identified whether cash deposit on that day tallies with the total available and it was informed that the cash was tallied as there was no difference. So he withdraw an amount of Rs. 2000/ from his personal account and remitted to the account of Nissar Clinic and Nursing Home. But the office boy through whom the amount was remitted was not examined thereby the management failed to prove the actual surrender of the amount of Rs. 12,975/ as claimed by the firm. It is admitted that the cash slip reached up to the Assistant Manager's table from where it was found missing. It is brought out that 3 cash slips were found missing out of which 2 were detected thereafter. But the disputed slip could not be traced out in spite of earnest attempt. So the Assistant Manager is the best person to swear about the circumstance of missing of the cash slip. But he was not examined before the enquiry officer and there was no reason for the same. It is pertinent to note that no show cause notice was issued to the Assistant manager or the clerk who received cash chalan after deposit of the amount and from whose custody it was missed. In the absence of the evidence of the above 2 witnesses it cannot be found that the chain of circumstance against the workman is completed so as to find him guilty of the misconduct. To prove an offence through circumstantial evidence the chain of circumstances against the delinquent should be completed without any break and the break if any, will affect the genuineness of the circumstantial evidence. So in the present case it cannot be found that the management has succeeded in proving the allegations against the workman thereby it has to be found that the findings of the enquiry officer are not based on evidence on record. Thus under these points it can be found that though the enquiry conducted through MW1 is valid and proper, the findings of the enquiry officer are not based on evidence on record.

10. Points 3 & 4:— As I have already found under points 1 & 2 that the findings of the enquiry officer are not based on evidence on record, the finding of guilt of the workman by the enquiry officer will not sustain by which it follows that the dismissal of the workman from the service of the management basing on the enquiry report is not sustainable and he is entitled to be reinstated with back wages and continuity in service. Points are answered accordingly.

In the result, an award is passed finding that the dismissal of the workman from the service of the management is not justified and he is entitled to be reinstated with back wages and with continuity in service.

This award will take effect one month after its publication in the Official Gazette.

Dictated to the Confidential Assistant, transcribed and typed out by her, corrected by me and passed this the 30th day of March, 2004.

N. THULASI BAI, Presiding Officer

Ernakulam.

## APPENDIX

Witnesses Examined on the side of the Management :—

MW1—Sri D. Ramakrishnan Nair.

Witness examined on the side of the workman :— Nil

Exhibits marked on the side of the Management :—

Ext.M1 - Enquiry file.

Exhibits marked on the side of the workman :— Nil.

नई दिल्ली, 4 जून, 2004

का. आ. 1504.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ बीकानेर एण्ड जयपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, जोधपुर के पंचाट [संदर्भ संख्या आई डी (केन्द्रीय) 3/2004] को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-6-2004 को प्राप्त हुआ था।

[सं. एल-12012/75/2003-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 4th June, 2004

S.O. 1504.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [ID(Central) 3/2004] of the Industrial Tribunal/Labour Court, Jodhpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 4-6-2004.

[No. L-12012/75/2003-IR (B.1)]

AJAY KUMAR, Desk Officer

### अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय जोधपुर

पीठासीन अधिकारी : श्रीमति निशा गुप्ता, आर० एच० जे० एस०  
औ०वि० (केन्द्रीय) सं० 3/2004

श्रीमती मधु शर्मा मार्फत अध्यक्ष

अखिल भारतीय स्टेट बैंक

ऑफ बीकानेर एण्ड जयपुर

कर्मचारी संघ मार्फत एस०

बी० बी० जे० मण्डिया रोड,

शाखा पाली, मारवाड़

.....प्रार्थीया

### बनाम

दी मैनेजिंग डायरेक्टर स्टेट बैंक आफ

बीकानेर एण्ड जयपुर हैड ऑफिस

तिलक मार्ग, जयपुर

.....अप्रार्थी

उपस्थिति :

1. प्रार्थी प्रतिनिधी : श्री ललित शर्मा उप०

2. अप्रार्थी प्रतिनिधी : श्री आर० सी० शर्मा उप०

**अधिनिर्णय**

दिनांक 15-4-20004

श्रम मंत्रालय भारत सरकार नई दिल्ली ने अपनी अधिसूचना एल० 12012/75/2003 दिनांक 18-7-2003 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

“क्या प्रबन्ध निदेशक स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर, जयपुर एवं शाखा प्रबन्धक स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर कलेक्ट्रेट शाखा, पाली मारवाड़ द्वारा कर्मकार श्रीमती मधु शर्मा विशेष सहायक को माह जून 2000 से माह सितम्बर 2002 तक स्थानापन्न भत्ते की राशि रुपये 3446/20 के स्थान पर रुपये 2082/80 किया जाना उचित एवं वैध है। यदि नहीं तो कर्मकार अपने नियोजक से क्या राहत पाने का अधिकारी है ?”

उक्त रेफरेन्स इस न्यायालय में प्राप्त होने पर दर्ज रजिस्टर्ड किया जाकर पक्षकों को जरिये नोटिस आहूत किया गया, दोनों पक्षों की ओर से 11-3-04 को उपस्थिति दी गई व प्रार्थी प्रतिनिधी ने मांगपत्र पेश करने को मौका चाहा जिसपर आज की पेशी दी गई। आज प्रार्थी प्रतिनिधी ने एक प्रार्थना-पत्र पेश कर निवेदन किया कि वे लोक अदालत की भवना से इस प्रकरण को आगे चलाना नहीं चाहते हैं। अतः प्रकरण में नोडिस्प्युट एवार्ड पारित कर दिया जावे। अतः प्रार्थी प्रतिनिधी की उक्त प्रार्थना अनुसार इस प्रकरण में “कोई विवाद नहीं रह जाने का अधिनिर्णय (नोडिस्प्युट एवार्ड) पारित किया जाता है।”

यह अधिनिर्णय आज दिनांक 15-4-2004 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 4 जून, 2004

का.आ. 1505.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, जोधपुर के पंचाट [संदर्भ संख्या आई टी (केन्द्रीय) 2/2004] को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-6-2004 को प्राप्त हुआ था।

[ सं. एल-12012/79/2003-आई.आर. (बी-1) ]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 4th June, 2004

S.O. 1505.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award [ID (Central) 2/2004] of the Industrial Tribunal/Labour Court, Jodhpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 4-6-2004.

[ No. L-12012/79/2003-IR (B-1) ]

AJAY KUMAR, Desk Officer

**अनुबन्ध**

**औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर**  
पीठासीन अधिकारी : श्रीमति निशा गुप्ता, आर० एच० जे० एस०  
औ०वि० ( केन्द्रीय ) सं० 2/2004

श्री छज्जाराम गणक माफत अध्यक्ष  
स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर  
कर्मचारी संघ केयर ऑफ ललित शर्मा  
एस. बी० बी० जे० ब्रांच मण्डिया रोड,  
पाली,

.....प्रार्थी

**बनाम**

मैनेजिंग डायरेक्टर एस. बी. बी. जे.  
ट्रेड ऑफिस तिलक मार्ग, जयपुर व ब्रांच  
मैनेजर एस.बी.बी. जे. कलेक्ट्रेट ब्रांच पाली  
मारवाड़।

.....अप्रार्थी

**उपस्थिति :**

1. प्रार्थी प्रतिनिधी : श्री ललित शर्मा उप०
2. अप्रार्थी प्रतिनिधी : श्री आर० सी० शर्मा उप०

**अधिनिर्णय**

दिनांक 15-4-2004

श्रम मंत्रालय भारत सरकार नई दिल्ली ने अपनी अधिसूचना क्रं. एल० 12012/79/2003 दिनांक 18-7-2003 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

“क्या प्रबन्ध निदेशक स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर, प्रधान कार्यालय जयपुर एवं शाखा प्रबन्धक स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर कलेक्ट्रेट शाखा, पाली मारवाड़ द्वारा अपने कर्मकार श्री छज्जाराम गणक एस०बी०बी०जे० कलेक्ट्रेट शाखा पाली मारवाड़ को (1) माह जून 2000 से माह सितम्बर 2001 तक की स्थानापन्न भत्ते की राशि को रोककर दिनांक 18-11-2003 को किया जाना उचित एवं वैध है, (2) माह जून 2000 से मास सितम्बर 2001 तक स्थानापन्न भत्ते की राशि रुपये 2869.73 के स्थान पर केवल मात्र रुपये 161/- भुगतान किया जाना उचित एवं वैध है ? यदि नहीं तो कर्मकार नियोजक से क्या राहत पाने का अधिकारी है ?”

उपरोक्त रेफरेन्स इस न्यायालय में प्राप्त होने पर दर्ज रजिस्टर्ड किया जाकर पक्षकों को जरिये नोटिस आहूत किया गया, दोनों पक्षों की ओर से 11-3-04 को उपस्थिति दी गई व प्रार्थी प्रतिनिधी ने मांगपत्र पेश करने को मौका चाहा जिसपर आज की पेशी दी गई। आज प्रार्थी प्रतिनिधी ने एक प्रार्थना-पत्र पेश कर निवेदन किया कि वे लोक अदालत की भावना से इस प्रकरण को आगे चलाना नहीं चाहते हैं। अतः प्रकरण में नोडिस्प्युट एवार्ड पारित कर दिया जावे। अतः प्रार्थी प्रतिनिधी की उक्त प्रार्थना अनुसार इस प्रकरण में “कोई विवाद नहीं रह जाने का अधिनिर्णय (नोडिस्प्युट एवार्ड) पारित किया जाता है।”

यह अधिनिर्णय आज दिनांक 15-4-2004 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 4 जून, 2004

का. आ. 1506.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 106/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-2004 को प्राप्त हुआ था।

[सं. एल-20012/512/2000-आई.आर. (सी-I)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

S.O. 1506.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 106/2001) of the Central Government Industrial Tribunal/Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 3-6-2004.

[No. L-20012/512/2000-IR (C-D)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT

Shri B. Biswas,

Presiding Officer :

In the matter of an Industrial Dispute under Section  
10(1)(d) of the I.D. Act., 1947.

#### REFERENCE NO. 106 OF 2001

PARTIES: Employers in relation to the  
management of M/s. B.C.C.L.  
and their workman

#### APPEARANCES:

On behalf of the workman : Mr. K. Chakravorty,  
Advocate.

On behalf of the employers: Mr. H. Nath  
Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 11th May, 2004.

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on the under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/512/2000 (C-D), dated, the 29th March, 2001.

#### SCHEDULE

"Whether the action of the management of M/s. BCCL in not correcting the date of birth as mentioned in

matriculation/"Engine Winding Certificate" in respect of the workman Sri Siddheswar Prashad Lalla, Winding Engine Operator of the Moonidih Project, is justified, legal and proper? If not, to what relief is the workman entitled?"

2. In course of hearing of the instant reference learned Advocate for the management by filing an office order dt. 8-1-2003 submitted before me that the dispute in question has already been settled. Learned Advocate for the concerned workman conceded to the submission made by the learned Advocate for the management and submitted that the concerned workman under the circumstances is not interested to proceed with the hearing of this case. The concerned workman himself also admitted the fact of settlement. In view of the facts and circumstances it is needless to proceed with this case further. Accordingly on the basis of office order dt. 8-1-2003 and also on the submission of both sides a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 4 जून, 2004

का. आ. 1507.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 98/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-2004 को प्राप्त हुआ था।

[सं. एल-20012/16/98-आई.आर. (सी-I)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

S.O. 1507.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 98/99) of the Central Government Industrial Tribunal/Labour Court, II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 3-6-2004.

[No. L-20012/16/98-IR (C-D)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT

Shri B. Biswas,

Presiding Officer :

In the matter of an Industrial Dispute under Section  
10(1)(d) of the I.D. Act., 1947.

**REFERENCE NO. 98 OF 1999**

**PARTIES :** Employers in relation to the management of General Manager, Kustore Area of M/s. BCCL and their workman

**APPEARANCES :**

On behalf of the workman : None  
 On behalf of the employers : Mr. U. N. Lall,  
 Advocate  
 State : Jharkhand  
 Industry : Coal

Dated, Dhanbad, the 11th May, 2004

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/16/98 IR(C-I), dated, the 29th January, 1999.

**SCHEDULE**

"Whether the action of the management of General Manager, Kustore Area of BCCL in demoting Sh. Baban Singh from Spl. Gr. Clerk to Gr. I Clerk is legal and justified? If not, to what relief is the workman entitled?"

2. In this reference neither the concerned workman nor his representative appeared. However, the management represented in this case through their learned Advocate. It reveals from the record that the instant reference case is pending since 1999 for disposal. It also further transpires from the record that sufficient opportunities were given to the workman but inspite of giving ample opportunities the workman/union has failed to turn up and even they did not consider necessary to submit Written Statement on their behalf. Gesture of the workman/union it is taken into consideration will expose clearly that the workman/union is not interested to proceed with the hearing of this case. Under such circumstances, it is needless to adjourn the case suo moto for days together. Accordingly a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 4 जून, 2004

का. आ. 1508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 122/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-2004 को प्राप्त हुआ था।

[सं. एन-20012/171/2000-आई.आर. (सी-I)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

**S.O. 1508.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 122/2000) of the Central Government Industrial Tribunal/Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 3-6-2004.

[No. L-20012/171/2000-IR (C-I)]

S. S. GUPTA, Under Secy.

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
 INDUSTRIAL TRIBUNAL (NO. 2)  
 DHANBAD**

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 122 of 2000

**PARTIES :** Employers in relation to the management of Block-II area of M/s. BCC Ltd.

**AND**

Their Workmen

**PRESENT**

Shri B. Biswas,  
 Presiding Officer :

**APPEARANCES :**

For the Management : Shri D. K. Verma,  
 Advocate  
 For the Workmen : None  
 State : Jharkhand  
 Industry : Coal

Dated, Dhanbad, the 11th May, 2004

**AWARD**

By Order No. L-20012/171/2000-IR(C-I), dated, 27-9-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Kya Dhanbad Colliery Karmachari Sangh Ki Mang ki Shri M.K. Sinha ko Store Keeper key pad par niyamit kia jaya uchit evam nayasangat hai ? Yadi hai, to Karmkar kis rahat key patra hai तथा किस तारीख से?"

2. It appears from the record that in spite of issuance of registered notice/show cause notice neither the concerned workman nor the sponsoring union appeared to take any step for filing written statement. This reference case is pending since 2000 for filing written statement. The

attitude of the parties show that they are reluctant to proceed with hearing of the instant case.

3. Accordingly, I render a 'No Dispute Award' in the present industrial dispute.

B. BISWAS, Presiding Officer

नई दिल्ली, 4 जून, 2004

का. आ. 1509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 56/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-2004 को प्राप्त हुआ था।

[सं. एल-20012/160/95-आई.आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

S.O. 1509.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/96) of the Central Government Industrial Tribunal/Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of E.C.L. and their workman, which was received by the Central Government on 3-6-2004.

[No. L-20012/160/95-IR (C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act 1947.

ReFERENCE No. 56 of 1996

**PARTIES:** Employers in relation to the management of Nirsa Area of M/s. E.C.L. and their workman

#### APPEARANCES:

On behalf of the workman : Mr. K. Chakravorty, Advocate.

On behalf of the employers: Mr. B. M. Prasad Advocate

State : Jharkhand  
Industry : Coal

Dated, Dhanbad, the 11th May, 2004

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following

dispute to this tribunal for adjudication vide their Order No. L-20012/160/95-IR (Coal-I), dated, the 11th June, 1996.

#### SCHEDULE

"Whether the action of the management of Nirsa Area of M/s. ECL in denying to re-assess the age of Shri Nizamuddin Mia, Mason is justified, If not, to what relief is the concerned workman entitled?"

2. In this reference both the parties appeared through their learned Advocate and also filed their respective Written Statements. The case then proceeded along its course. Subsequently at the stage of filing rejoinder and documents learned Advocate for the concerned workman submitted his prayer to pass a 'No dispute' Award in this reference as the concerned workman involved in this dispute is not interested to proceed with the hearing of this case.

Since the concerned workman involved in this dispute is not interested to proceed with the hearing of this case, there is no reason to drag on the same any further. Under such circumstance, a 'No dispute' Awards is rendered and the instant references is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 4 जून, 2004

का. आ. 1510.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.एम.पी.डी. आई.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 213/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-2004 को प्राप्त हुआ था।

[सं. एल-20012/576/98-आई.आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

S.O. 1510.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 213/99) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of C.M.P.D.I.L. and their workman, which was received by the Central Government on 3-6-2004.

[No. L-20012/576/98-IR (C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of a Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

## Reference No. 213 of 1999

**PARTIES:** Employers in relation to the management of CMPDIL and their workman

**APPEARANCES:**

On behalf of the workman : None  
 On behalf of the employers: Mr. A. K. Mishra,  
 Personnel Officer.  
 State : Jharkhand :  
 Industry : Mine Planning.

Dated, Dhanbad, the 11th May, 2004.

**AWARD**

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/576/98-IR(C-I), dated, the 17th May, 1999.

**SCHEDULE**

"Kya Shri Garkha Bouri Vidhai Canteen Key Karmkar Honey Key Nate C.M.P.D.I.L. key Sidhey Karmkar Maney Janey Chahiye Yadi Han to iis Samandh Mey Kya Dinank 15-6-98 sey Theke ki Sampti Par Unki Sevaya Samapt Kiya Jana Vidhibat Evam Nayasangat Hai Yadi nahi to Karmkar kis Rahat key Patra Hai?"

2. In this case neither the concerned workman nor his representative appeared. Management, however, represented through their authorised representative. No written statement has also been filed by the parties. This is a case of 1999 and this Tribunal cannot adjourn the case *suo moto*. It reveals from the record that sufficient opportunities were given to the parties for filing their respective Written Statements, but in spite of giving ample opportunities they have failed to file Written Statement on their behalf. Gesture of the parties shows clearly that they are not interested to proceed with the hearing of this case. Under such circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of the 'No dispute' Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer.

नई दिल्ली, 4 जून, 2004

का. आ. 1511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 100/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-2004 को प्राप्त हुआ था।

[सं. एल-20012/49/98-आई.आर. (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

**S.O. 1511.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) of the Central Government hereby publishes the award (Ref. No. 100/99) of the Central Government Industrial Tribunal/Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 3-6-2004.

[No. L-20012/49/98-IR (C-I)]

S. S. GUPTA, Under Secy.

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
 INDUSTRIAL TRIBUNAL (NO. 2) AT  
 DHANBAD**

**PRESENT:**

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

**Reference No. 100 OF 1999**

**PARTIES:** Employers in relation to the management of BCCL and their workman

**APPEARANCES:**

On behalf of the workman : None  
 On behalf of the employers : None  
 State : Jharkhand Industry : Coal

Dated, Dhanbad, the 11th May, 2004.

**AWARD**

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/49/98-IR(C-I), dated, the 29th January, 1999.

**SCHEDULE**

"Whether the action of the management of Balihari Colliery of M/s. BCCL in denial to pay special allowance for operating the Road Meader Machines from January, 1994 onwards (although, the management paid the special allowance from Feb., 1991 to Dec., 1993) to S/Sh. Jaigobind Ram, M.C.L., R. N. Das, Electrician, R. Kumar, Foreman and Umesh Kumar, Fitter is justified? If not, to what relief are these workmen entitled?"

2. In this reference neither the concerned workman nor his representative appeared. Non also appeared on behalf of the management. Record shows that in spite of issuance of repeated notices the parties have failed to submit their respective Written Statment on their behalf. The case is pending since 1999. The gesture of the parties

is of looked into will expose clearly that they are not interested to proceed with the case. Accordingly a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'no dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer.

नई दिल्ली, 4 जून, 2004

का. आ. 1512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 33/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-2004 को प्राप्त हुआ था।

[सं. एल-20012/309/99-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

S.O. 1512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) of the Central Government hereby publishes the award (Ref. No. 33/2001) of the Central Government Industrial Tribunal/Labour Court, II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 3-6-2004.

[No. L-20012/309/99-IR (C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

In the matter of a reference U/S. 10(1) (d) (2A) of the Industrial Disputes Act, 1947

Reference No. 33 of 2001

**PARTIES:** Employers in relation to the management of Govindpur Area of M/s. B.C.C. Ltd.

AND

Their Workmen

**PRESENT:** Shri B. Biswas, Presiding Officer.

#### APPEARANCE:

For the Employers : None

For the Workmen : None

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 11th May, 2004.

#### AWARD

By Order No. L-20012/309/99-IR (C-I) dated 2-2-2000 the Central Government in the Ministry of Labour has, in

exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management in dismissing the services of Shri Sharmin Ansari instead of recommending him on light duty is genuine & justified ? If not, to what relief the concerned workman is entitled ?"

2. In spite of issuance of registered notices, neither from the side of the workman concerned nor from the side of the management appeared to take any step for filing written statement. The attitude of the parties clearly shows that they are reluctant to proceed with hearing of the case further. I find no reason to adjourn the case *suo moto*.

3. In such circumstances, I render a 'No Dispute Award' in the present industrial dispute.

B. BISWAS, Presiding Officer.

नई दिल्ली, 4 जून, 2004

का. आ. 1513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 121/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-2004 को प्राप्त हुआ था।

[सं. एल-20012/174/2000-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

S.O. 1513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) of the Central Government hereby publishes the award (Ref. No. 121/2000) of the Central Government Industrial Tribunal/Labour Court, II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 3-6-2004.

[No. L-20012/174/2000-IR (C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

In the matter of a reference U/S. 10(1) (d) (2A) of the Industrial Disputes Act, 1947

Reference No. 121 of 2000

**PARTIES:** Employers in relation to the Management of Barora Area of M/s. S.B.C.C. Ltd.

**AND**  
**Their Workmen**

**PRESENT:**

Shri B. Biswas, Presiding Officer.

**APPEARANCES:**

For the Management : Shri B. M. Prasad,  
 Advocate.

For the Workmen : None

State : Jharkhand : Industry : Coal.

Dated, the 11th May, 2004

**AWARD**

By Order No. L-20012/174/2000-IR (C-I) dated 27-9-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Kya Rashtriya Colliery mazdoor Ki Mang Ki Shri R. K. Barhi Ko Dinank 6-12-96 Sey Fitter Helper Ex. Grade ‘E’ Mey Niyamit Kiya Jaya Tatha Tatpashchat E.P. Fitter Grade III Mey Padounnoti Di Jaya Uchit Evam Nyaya Sangat Hai Yadi Han to karmkar Kin Lavo key Patra Hai Tatha Kis Tarikh Sey ?”

2. It appears from the record that in spite of giving several notices neither the concerned workman nor the sponsoring union appeared to take any step for filing written statement. If the attitude of the concerned workman/union is considered there is reason to believe that the concerned workman/union is not interested to proceed with hearing of the case further.

3. In such circumstances, I render a ‘No Dispute Award’ in the present industrial dispute.

B. BISWAS, Presiding Officer

नई दिल्ली, 4 जून, 2004

का. आ. 1514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 175/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-04 को प्राप्त हुआ था।

[सं. एल-20012/80/2001-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

S.O. 1514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) of the Central Government hereby publishes the award (Ref. No. 175/2001) of the Central Government Industrial Tribunal/Labour Court, II Dhanbad now as shown in the

Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 3-6-04.

[No. L-20012/80/2001-IR (C-I)]

S. S. GUPTA, Under Secy.

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
 INDUSTRIAL TRIBUNAL (NO. 2) AT  
 DHANBAD**

In the matter of a reference u/s. 10(1) (d) (2A) of the Industrial Disputes Act, 1947

Reference No. 175 of 2001

**PARTIES:** Employers in relation to the management of M/s. BCCL.

**AND**

Their Workmen.

**PRESENT:**

Shri B. Biswas, Presiding officer

**APPEARANCES:**

For the Employers : Shri B. M. Prasad,  
 Advocate.

For the Workmen : None

State : Jharkhand : Industry : Coal

Dated, the 11th May, 2004

**AWARD**

By Order No. L-20012/80/2001-IR (C-I) dated 22-5-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of C. V. Area of M/s. BCCL in not accepting the VRS(F) application of Smt. Nepura Bourin, W/Loader in favour of her dependent son is fair and justified? If not, to what relief is the concerned workman entitled?”

2. It appears from the record that in spite of repeated notices neither the concerned workman/union appeared nor filed any written statement. If the attitude of the workman/union is considered there is reason to believe that neither the concerned workman nor the sponsoring union is interested to proceed with hearing of the case further. I do not find any reason to adjourn the case suo motu, under such circumstances.

3. Hence, I render a ‘No Dispute Award’ in the present industrial dispute.

B. BISWAS, Presiding Officer.



नई दिल्ली, 4 जून, 2004

का.आ. 1515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. सुफतांश जर्मन एयरलाइंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण I मुम्बई के पंचाट (संदर्भ संख्या 9/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-04 को प्राप्त हुआ था।

[सं. एल-11012/16/2000-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 4th June, 2004

S.O. 1515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2000) of the Central Government Industrial Tribunal/Labour Court, I Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Lufthansa German Airlines and their workman, which was received by the Central Government on 3-6-04.

[No. L-11012/16/2000-IR (C-I)]

S. S. GUPTA, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. I MUMBAI

## Present

Shri Justice S. C. Pandey

Presiding Officer

REFERENCE NO. CGIT-9/2000

Parties : Employers in relation to the management  
of M/s Lufthansa German Airlines

And

Their Workmen

## Appearances :—

For the Management : Mr. A. K. Wanwahi,  
Adv.

For the Workman : Mr. Pirzada, Adv.

State : Maharashtra

Mumbai dated the 18th day of May, 2004

## AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (the Act for short) for

adjudicating upon and industrial dispute between Vishnula B. Kori (the workman for short) and Lufthansa German Airlines (the company for short). The terms of reference in respect of the aforesaid industrial dispute are as follows:

“Whether the saction of the management of Lufthansa German Airlines in terminating the services of Shri. Vishnula B. Kori, Ex-Driver w.e.f. 27/11/98 is legal and justified? If not, what relief is the workman entitle to?

2. In his statement of claim, the workman stated that he was an employee of the company. He joined the company as a Driver-cum-office assistant from 1/2/1994. The services of the workman were terminated orally w.e.f. 27/11/98 without assigning any reason. At time of his termination the workman was drawing Rs. 5,718/- per month by way of salary. The workman claimed that he had made a representation by way of letter dated 19/12/1998 against arbitrary termination of his services. When the company did not fulfil the request an industrial dispute was raised by the workman by issuing a Demand Notice for the reinstatement with full back wages. The company did not respond. Thereupon, the workman approached Asstt. Commissioner Labour, the Conciliation Officer. The company took the stand that workman was not its employee. He was the employee of Mr. Dieter Grosse. The company did not agree to reinstate the workman before the Conciliation Officer. On failure of Conciliation, the Conciliation Officer reported the matter to the Central Govt. Thereafter, the entire matter has referred the dispute to the tribunal. The workman claimed that termination of his services with effect from 27/11/1998 amounted to retrenchment without following the procedure laid down in Section 25F of the Act. The workman was not given retrenchment compensation. Moreover, section 25G of the Act were violated by keeping his juniors in employment. The company was required to seek permission of the Govt. as if employed more than 100 persons. The workman prayed for reinstatement with full back wages with continuously in service and consequential benefits or any order suitable award under the facts and circumstances of the case.

3. The company stated in its written statement that the workman was not its employee. He was initially employed by Mr. G. Pfisterer who was then the Airport Station Manager in the year 1994. Thereafter, Dieter Grosse occupied the position of Station Manager in November 1997 instead of Mr. Pfisterer who went back to Germany. Mr. Dieter Grosse employed workman as his driver till October 1998. It was alleged in the pleading both Mr. Pfisterer and Mr. Grosse had applied for getting Airport pass for the workman so that they could travel in their cars within the Security Zones of the Airport. It was denied that workman joined the office of the company on 1/2/94 as its employee. Since the case of the company was that workman was in the employment of the company it denied that

1818 GI/04

workman was entitled to any right flowing from his status as a workman of the company. It is therefore, not necessary to comply with the mandatory provisions of law. Thus non-compliance of mandatory provisions was impliedly admitted. It is therefore, not necessary to refer to other pleadings.

4. This tribunal framed the following issues on 12-2-2002

- (i) Whether Shri. Vishnupal B. Kori was employed as a Driver by M/s. Lufthansa German Airlines?
- (ii) Whether M/s. Lufthansa German Airlines terminated the service of the workman w.e.f. 27-11-1998 without complying with the provisions of law and the termination of the services of the workman amounts to retrenchment in the eyes of law?
- (iii) whether the workman is entitled to relief of reinstatement and back wages by way the award passed by this Tribunal?

5. In support to his case the workman filed his affidavit. The workman was cross examined twice. He had to be recalled for cross examination after one witness of the company. Mr. S. G Ullah had filed his affidavit and he was cross examined. Thereafter, the company chose to examine Shri. Rajiv Munjal by filing his affidavit. He was cross examined by the counsel for the workman. Thereafter, the company closed its case.

6. It is obvious that the case of the workman was that he was an employee of the company. He was working as a driver/Office Asstt. At the time of termination of his services with effect from 27-11-98, without complying with Section 25F of the Act. Since the case of the company is solely based on Issue No. 1 and therefore, issue Nos. 2. and 3 are only formal.

7. The workman reiterated what he stated in the statement of claim in his affidavit. He claimed that he was employed by the company w.e.f. 1-2-1994 and his services were terminated from 27-11-1998. Thereafter, industrial dispute was raised by him. When the company did not reply to his letter dated 19-11-98. After service of demand notice dated 11-2-99, the matter was raised before the Conciliation Officer. The company filed its written statement dated 23-4-99 denying relationship of employer and employee before Conciliation Officer and claiming that he was a personal employee of Mr. Grosse. The Conciliation Officer, after satisfying himself as to existence of an industrial dispute, referred the matter to Central Government on failure of conciliation. The workman stated that he relied on documents showing as items No. (a) to (q) in paragraph 8 of his affidavit. The workman claimed reinstatement with back wages. The workman stated that his employment was

oral. He stated that he was paid in cash. He was required to sign vouchers given by the Accounts Department. The workman stated that he was given the facility of provident fund. He however, stated that he got bonus. The workman stated that he has no written contract with the company but admitted that he had signed Exhibit M1. The document Exhibit M1 was signed by him because Mr. Grosse told him that the document was required by the company. He stated that he did so without reading the documents. He did not deny the contents of M1. Further cross examination revealed that workman was serving the family of Mr. Grosse and Mr. Pfstirer and performed the job of taking children to school and bringing them back. He stated that he used to take Mr. Pfstirer and Grosse to Airport from their home or office. A security pass was required for entering the Airport in the car was taken in and parked in the security area. He admitted that he used to carry bags of aforesaid two persons. He denied that he was not employed by the German Airlines. The witness was recalled pursuant to order dated 21st Jan., 2003 for cross examination because he had filed photo copy of Exhibit W1 the salary certificate dated Jan., 1998 and a photo copy Exhibit W2 which purported to be a copy of the yellow card. The workman did not produce original of Exhibit W1 and exhibit W2. He stated that the original of Exhibit W1 was not in his possession as he had given the original to an agent of Grindlays Bank for obtaining Credit card and signed document Exhibit W2 was submitted in the office. Therefore, on 3-9-2003 Mr. Wanjre refused to cross examine the witness.

8. The company's witness S. G. Ullah stated that the names of all the employees of the company are mentioned in book form filed by him as Exhibit B. He stated that workman was personal employee of Mr. Pfstirer and thereafter that of Mr. Grosse. The company did not pay him. Nor did it employ him. He stated in cross examination that Exhibit W1 appeared to have been signed by Mr. Grosse (This was a photo copy). The exhibit W2 to 22 on the Xerox copies. The yellow cards were issued for showing presence of the employees. He denied that salary of the drivers was paid by way of vouchers in cash by the company. He denied that salary of the workman was paid in the office. He admitted that certain vouchers may have been prepared by the Secretary of Mr. Grosse. He had not done so. He did not know if the vouchers of Mr. Kori prepared in the name of the company. He denied that company paid the salary of the workman in cash.

9. Rajeev Munjal stated in his affidavit that he corresponded with Mr. Grosse who posted at Sofia Bulgaria. He was unable to attend the tribunal from Bulgaria. He had received the information from Mr. Grosse by fax dated 5-3-2003 and 7-3-2003. It was stated by him that Mr. Grosse did not confirm Exhibited W1 and Exhibit W2 after seeing the photo copies. He filed Exhibit A and B respectively and further a letter stating that the workman was his driver and not the employee of the company. The witness Munjal

admitted that he had no personal knowledge about the case of workman. He admitted Exhibit W1 stated that the workman working as Office Asstt. He admitted document Exhibit W3 to W17 mention that Mr. Kori was the employee of Lufthansa. The witness admitted that Mr. Grosse could attend the tribunal but it was inconvenient to call him. He admitted that he undertaken the exercise of sending E-Mail to Mr. Grosse.

10. Having summarised the salient features of evidence of the parties, this tribunal shall consider the effect of the evidence M. Munjal. This tribunal is of the view that information that received from Mr. Grosse, is at best not a direct evidence. The documents produced by him are merely self serving documents allegedly made by Mr. Grosse on fax. Mr. Grosse could have written letters to the company under his own signature. Since no original letter was sent by Mr. Grosse despite the fact the case has been pending long, it is probable that these self serving documents were obtained by Mr. Munjal. Mr. Munjal has admitted that Mr. Grosse could depose if so required by the tribunal. In Adversarial system, the tribunal does not ordinarily examine a witness. It is for the parties to do so. Once it was admitted that Mr. Grosse could come to Mumbai, it was for the company to examine its witness. Therefore, this Tribunal does not accept the testimony of Mr. Munjal regarding the alleged statement made by Mr. Grosse to Mr. Munjal by fax. It would be most unfair to accept the version of Mr. Munjal, because in absence of Mr. Grosse the workman did not get an opportunity to cross examine him regarding these statements.

11. However, the question is if there be sufficient evidence for holding that there was employer-employee relationship between the workman and the company. The workman had admitted that he had signed Exhibit M1. Now it is well established that admission is the best evidence against a person. Therefore, we must look out the explanation given by the workman. The workman says that he signed the document Exhibit M1 without reading it because he was told that the document was required by the company. The document M1 reads as under :

#### SERVICE CONTRACT

Between Mr. Vishnualal B. Kori

And Mr. Dieter Grosse

Commencement 01 November, 1997

Mr. Vishnualal will provide his services as Driver/Personal Assistant to Mr. Dieter Grosse and Family.

Working time is 40 hours per week, Monday to Saturday.

Overtime will be paid at the rate of 1/174 of the basic Salary.

Following allowances are applicable.

(i) Work after 8 p.m. INR 150 per night.

(ii) Transportation INR 345 per month.

(iii) Uniform will be supplied once a year.

(iv) Work on holidays and Sundays will be paid as overtime.

(Holidays according to LH rules)

(v) In the month of October 1 Basic salary will be paid in addition.

The Basic salary INR 5433/- (Rupees Five thousand four hundred thirty three) is due on the last day (working day) of each month.

Accepted and Agreed :

DIETER GROSSE

VISHNULAL B. KORI

Mumbai 01 November, 1997

It is apparent that workman would not sign Exhibit M1 without reading it because it contained the conditions of his service. The document Exhibit M1 is dated 1st November, 1997. It is the date on which Mr. Grosse joined the company at India. The explanation of the workman is not at all satisfactory and consequently, it is held that Exhibit M1 appears to be contract in writing signed by the workman. It is a contract of service. The company is nowhere in picture. Therefore, in view of this documentary evidence purported to be written on 1-11-1997 no other evidence is required or even admissible to change the initial version as on 1-11-1997. It is not case of the workman that he was victim of fraud committed by Mr. Grosse.

12. The learned counsel for the workman relied upon the Exhibit W1 and W2. It is apparent that Exhibit W1 is a photo copy of the salary certificate purported to be given by Mr. Grosse. In the opinion of this tribunal, the photo copy could not be introduced by the workman in evidence without stating in his affidavit that he did not have the original with him. When the witness was recalled on 3-9-2003 he did not produce the original. Now since witness could not produce the original. This tribunal cannot rely on Exhibit W1 unless it is satisfied that the explanation given by the workman is satisfactory. In the opinion of this tribunal, the explanation given by the workman is not satisfactory. This tribunal does not believe the version of the workman that he had lost the original. Then Exhibit W1 cannot be accepted in evidence for proving its contents. Nor does the evidence of Ullah in cross examination that the Exhibit W1 appears to have the signature of Mr. Grosse. A photocopy shall be proved by producing the original where secondary evidence is accepted. However, the documents requiring proof of signature of a person, have to be proved by producing the original so that the party denying the signature has opportunity to disprove the fact that the document bears his signature. This tribunal

was examined Exhibit W2, (collectively), Ex-W3, Ex-W4, Ex-W5, Ex-W6, Ex-W7, Ex-W8, Ex-W9, Ex-W10, Ex-W11, Ex-W12, Ex-W13, Ex-W14, Ex-W15, Ex-W16, Ex-W17. These documents are not substantive pieces of evidence Exhibit W18 paragraph 2 refers to Exhibit M1. Thus, this tribunal holds on the basis of preponderance of probabilities that as per Exhibit M1 dated 1-11-1997 the workman was employee of Mr. Dieter Grosse and Family. Accordingly, issue No. 1 is decided by stating that workman has failed to prove that he was appointed as driver/Office Asstt. By the company.

13. In view of the aforesaid finding on issue No. 1 the Issues No. 2 and 3 are decided in favour of the company and against the workman.

14. The reference is answered by saying that the workman was not an employee of Lufthansa German Airlines. The workman is not entitled to any relief against the company.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 7 जून, 2004

का. आ. 1516.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार से एफ टी आर आई के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 20/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-6-04 को प्राप्त हुआ था।

[ सं. एल-42011/40/2000-आई.आर. (डी.यू.) ]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 7th June, 2004

S.O. 1516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/2001) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CFTRI and their workman, which was received by the Central Government on 7-6-04.

[No. L-42011/40/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BANGALORE

Dated the 28th May, 2004

Present :

Shri A.R. Siddiqui, Presiding Officer

C.R. No. 20/2001

#### I Parties :

Smt. Nagarathnamma,  
W/o Sh. M.V. Venugopal,  
D. No. 3486, 4th Main,  
Thilaknagar,  
Mysore.

#### : II Party

The Director,  
Central Food Techno-  
logical  
Research Institute,  
Mysore.

#### Appearances :

##### I Party

: Shri H. Gonsalves  
Trade Unionist

##### II Party

: Ravi Jagan  
Advocate

#### AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* Order No. L-42011/40/2000/IR(DU) dated 09-02-2001 for adjudication of the following :

#### SCHEDULE

"Whether Smt. V. Nagarathanamma former Ayah of CFTRI, Mysore is justified in claiming re-employment under CFTRI, Mysore? If not, what relief to the workman is entitle?"

2. The case of the I party workman as made out in her claim statement is that the workman belonging to SC and after due selection has been appointed as 'Ayah' in the scale of Rs. 196-3-220-EB-3-232 to work in one of the Projects under Control of the II party Management by its order dated 30-08-1976. The para 7 of the said order read to the effect that she will have to work under the "Professor Childrens' Hospital, Mysore" and she shall conform to the duty hours, holidays, etc., of the hospital and after having accepted the terms and conditions of the appointment order she had discharged her duties sincerely and honestly to the entire satisfaction of her Superiors, that the second party management CFTRI managed and controlled by the Central Government research work in the department of Nutrition and food safety represented by the Director of Central Government, that the action of the Management refusing work to the workman in the absence of Rules or Contract is highly discriminatory and opposed to the fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India, that the workman had completed 240 days of service in block period from 1976 to 1988 and is entitled to the protection under the provisions of the Industrial Disputes Act. The action of the management therefore amounts to illegal retrenchment in violation of Section 25 (f) and 25(n) of the I.D. Act, that the management had issued a letter dated 06-12-1989 certifying that the workman had worked from 1976 to 1988 as 'Ayah' in feeding trial project on babies and various hospitals at Mysore;

that the entire salary to the workman was being paid by the management, the workman being deputed to work in different hospital under the Control of the Management as the management had no such facilities to feed babies and that work was being carried out at various hospitals notified by the Management for the purpose of research work. Therefore, the action of the management in refusing work to the workman is highly illegal, arbitrary, nullity and in violation of fundamental rights guaranteed under the constitution of India, liable to be set aside in the interest of justice. Therefore, she may be reinstated in service in original place with full back wages, continuity of service and all other consequential benefits as deemed fit.

3. The Management by its Counter Statement challenged claim of the workman firstly on the ground that the dispute itself is not maintainable either in law or on facts as this tribunal has no jurisdiction to entertain same for the reason that the management is not an "Industry" and the I party is not a workman as contemplated under the provisions of I.D. Act. On facts, the management contended that it had engaged the I party as 'Ayah' on 01-09-1976 purely on temporary basis in its *ad hoc* project entitled "Foundation and evaluation of infant foods" at Children Hospital, Mysore. She having accepted terms and conditions with her engagement would be terminated without any notice on expiry of the project and was not entitled to claim any Regular Appointment with the II party, that as per the terms of the Officer Memorandum dated 03-08-1976, of the II party, the engagement of the I party would terminate without any notice on expiry of its project. Despite, the II party served two months notice on the I party intimating her of the termination of her service as on 31-03-1979. Further, more the said notification also reveals that the I party is not entitled for any claim or regular employment with the II party, that the I party had completed 240 days of her work with the I party, much less from 1976 to 1988. The I party cannot invoke the provisions of the Industrial Dispute Act, as she is not an employee not the I party is an Industry, as envisaged in the said act; that the I party had filed O.A. 795 of 1990, before the CAT, Bangalore, on the same issue. The Hon'ble Tribunal by its Order dated 13-11-1992, had held that the I party was an employee of Holds Worth Memorial Hospital, from May 1979 to May 1988, since she had obtained employment by herself. From the said Order it is clear that there is no relationship between the first and second party; that the letter dated 06-12-1988, issued by the II Party, confirms any employment or engagement of the I Party, in its project. It is submitted that on completion of the *ad hoc* project of the I Party in Children Hospital, Mysore, the I party was informed *vide* its Office Memorandum dated 25-01-1979, that her engagement in the project stood terminated on the afternoon of 31-03-1979. Thereafter, the first party got herself engaged on her own with the project of Holds Worth Memorial Hospital. It was ascertained by the I party

through a letter dated 25-02-1984, issued by the Holds Worth Memorial hospital. Since the I party stood only as a funding agency to its various projects, it is no way involved in the recruitment of any employees or payment of their salary in such projects funded by it. It is denied that the action of the II Party in the termination of the service of the first was illegal, arbitrary, irregular, malafide, capricious, discriminatory and violation of fundamental rights, that the I party ceased to provide service to the II party as soon as its project in which she was engaged ended, that the termination of the I party was as per the conditions of the office memorandum dated 30-08-1976, issued to the I party, that the claim of the I Party is devoid of merits and in view of the Authority of Hon'ble Supreme Court of India, by its Judgement dated 18-07-2000, in the Council of Scientific and Industrial Research & another vs. Smt. Padma Ravinder Nath & others, (Civil Appeal Nos. 1787—1792 of 1991), that this Hon'ble Tribunal be pleased to dismiss the Claim of the I Party, in the interest of justice and equity.

4. Now therefore, in the light of the above, the point of reference, which falls consideration of this Tribunal, is :

"Whether Smt. V. Nagarathnamma former Ayah of CFTRI, Mysore is justified in claiming re-employment under CFTRI, Mysore? If not, to what relief the workman is entitled?"

5. In order to substantiate her case, the I party examined herself as WW 1 and got marked documents as Ex W1—W9.

6. Whereas the Management on its part examined its "Section Officer" as MW 1 and got marked documents as exhibit Ex. M1—M7.

7. I would like to refer to the statements of WW1 and MW1 when ever found relevant and necessary. The documents produced by the I Party and marked at Ex. W1 to W9 are :

Exhibit W-1	— Appointment Order
Exhibit W-2	— Extension Order
Exhibit W-3	— Appointment Order
Exhibit W-4	— Continuance of the Appointment Order
Exhibit W-5	— Notification for filling up of 30 posts of Helper
Exhibit W-6	— Notice for interview
Exhibit W-7	— Certificate
Exhibit W-8	— Certificate
Exhibit W-9	— Certificate

8. The documents produced by the II Party are at Ex. M1 to M7 are :

Exhibit M-1	— Relieve Order of I party
Exhibit M-2	— Offer of appointment

Exhibit M-3	— Notice for Termination
Exhibit M-4	— Authorisation letter to appear before the Tribunal
Exhibit M-5	— CAT Order
Exhibit M-6	— Letter of Hospital for PF and Gratuity
Exhibit M-7	— Appointment order of Smt. Chandiramani

9. Learned representative for the I party and learned counsel for the II party have submitted their written arguments more or less reiterating their respective contentions taken in the Claim and Counter Statement. Learned representative for the I party has also cited ruling reported in:

1. *BWSSB Vs. A Rajappa* 1976 S.C. Page 176.
2. *Mahajan Borewell Co. Vs. Rajaram Bhat* 1 LLJ, KAR. Page 110 1997
3. *The Punjab Land Development & Reclamation Corporation Vs. The Presiding Officer and Others* S.C. 1990 LLR Page 410.
4. *Upton India Ltd. Vs. Shantini Bhan*, S.C. 1998 (79) ILR Page 233.
5. *Weekman of English Electric Co. Vs. The Presiding Officer*, LLR. S.C. Page 174.

10. After having gone through the records including the document at Ex. M-5, the order passed by the CAT, Bangalore on O.A. 795/1990, dated 13-11-92, I do not find substance in the Claim put forth by the I Party.

11. The first and foremost important fact to be brought on record is the undisputed fact that I party in this case approached CAT, Bangalore bench putting forth the same claim seeking the same relief as is done in this case. The I party as well as the management both have produced before the Tribunal, the Photostat copy of the order passed by the CAT and it appears to be worthwhile to bring on record the relevant observations and the reasonings given by the CAT rejecting the claim of the I Party.

"The facts produced before us, we find that the basic facts in this case are not in dispute. The only point in dispute is whether from May 1979 to till 31-3-1979, when the applicant was working in the Mary Calvert Hospital, she continued to be an employee of CFTRI or not. It is clear that the applicant was originally engaged by the CFTRI in a project from 1-9-1976 to 31-3-1979 and here services were terminated with effect from 31-1-1979 through a proper order. She was subsequently engaged by CFTRI on daily wages basis from 1-4-1979 to 10-4-1979. The applicant has not produced before us

any material to show that from May 1979 she continued as an employee of CFTRI. It is clear from the letter dated 25-2-1984 written by Mary Calvert Hospital to CFTRI that the hospital employed the applicant from May, 1979 and that appointment was not on the basis of any order or direction by CFTRI. It is for the very reason that the Mary Calvert Hospital had requested in their letter for additional funds for meeting Provident Fund and Gratuity liabilities of the applicant. If the CFTRI had employed the applicant the question of the Mary Calvert Hospital having to contribute the Provident Fund and Gratuity liabilities would not have arisen at all. We that since the control, supervision and funding of the project was with CFTRI the applicant should be deemed to be an employee of CFTRI. Mere funding of a project by a Government Organisation would not make the persons employed in that project by an independent non-Government Organisation like hospital or voluntary organization eligible to be treated as Government Servants. We are supported in our view by the ratio laid down by the Supreme Court in the judgement in the case of *SB Mahajan and other versus Jalgaon Municipal Council and others* reported in (1991) 3 SCC 91. In this case, it has been held that the Government or its instrumentality is free to evolve any method of execution of project and judicial review of the same is not open so long the method is within constitutional and legal limits. In the present case CFTRI had decided as early as April 1979 to get the Feeding Trial Projects through private hospitals and no violation of constitutional or legal limits has been brought to our notice, in taking such decision. Accordingly the applicant has to fail.

Gopal's case referred to by the counsel for the applicant has no application here, since in that case the applicants were directly engaged by the Officer-in-charge of the Officers' Mess. Similarly V.L. Chandra's case does not have any application to the present case, since in Chandra's case the applicants therein were directly employed by the All India Institute of Medical Sciences in various projects for longer periods as was done by CFTRI in the case of the applicant from 1-9-1976 to 30-4-1979. The applicant has not produced any material to show that from May 1979 till May 1988 the CFTRI directly engaged her in various projects and directed her to work in the Mary Calvert Hospital, Mysore. Dr. Nagaraja does not also help the case of the applicant, since in that case it was held by the Supreme Court that the Indian Railway Conference Association is a part of the Railway Administration. In the present case, the Mary Calvert Hospital is not a part of CFTRI or the Council of Scientific and

Industrial Research. In view of this, we find no hesitation in holding that the applicant was an employee of the Mary Calvert Hospital from May 1979 to May 1988 and she had obtained such employment by her own efforts. Accordingly, there was not Master and Servant Relationship between CFTRI and the applicant from May 1979 to May 1988 and if at all the applicant is aggrieved by the termination of her services by the Mary Calvert Hospital, she has to approach the proper forum for the redressal of her grievances.

Since we are rejecting the application on merits, we do not propose to get into the preliminary objections raised by the respondent regarding the bar of limitation and also non-joinder of necessary/proper parties.

In the light of the above, we find no merit in this application and that the applicant is not entitled to the reliefs she has asked for. Accordingly, the application is dismissed."

12. As can be read from the above said passage of the order quoted, the facts agitated by the I party and countered by the management are almost replica of the facts narrated in the claim statement by the I party and the Counter Statement filed by II party filed in the instant case. It can also be seen that the various documents which were relied upon by the respective parties before the said tribunal were almost the same documents which are now taken support of by the parties to substantiate their respective contentions. The basic facts namely, the appointment of the I party by the management by the Appointment Order dated 9-9-1976 and that her services were thereafter extended from time to time up till May 1979 are not disputable. It is against not in dispute that the workman was in the service of the above said Mary Calvert Hospital from May 1979 till May 1988. The fact, rather the contention now to be decided is whether from May 1979 till May 1988 when the I party was working in the aforesaid hospital, did she continue to be an employee of the management or not. It is clear or rather admitted that I party was originally engaged by the management in a project from 1-9-1976 to 31-3-1979 through a specific and proper appointment order. Her services were continued from time to time up till 31-3-1979 and thereafter it is said that she was in the services of the management on a daily wage basis up till May 1979. As argued and as observed by the learned judge of CAT in the aforesaid order, the I party had not produced any documents before the said tribunal nor she has produced any documents before this tribunal so as to substantiate her case that from May 1979 onwards she continued as an employee of the management. If she were to be appointed by the management by a specific and clear order as noted above and her services were to be continued from time to time by issuing specific orders of extension, then in the natural course of things the management would also have passed the similar orders either extending services of

I party in the project undertaken by it or deputing the services of I party with the Mary Calvert Hospital. No such order is produced by the I party before this tribunal. It is also not the case of the I party that any order in writing was made deputing her to the said hospital though she took up such a contention in her claim statement.

13. The most important document in this case is the letter dated 25-2-1984 written by said Mary Calvert Hospital to the management making it abundantly clear that the I party was appointed by it on its own. She has joined the service of said hospital on her own and that it was not on the basis of any orders passed by the management. As seen above the above said letter has been very much taken note of by the CAT in coming to the conclusion that the I party was not in service of the management from May 1979 onwards. The reasonings assigned by the CAT and the observation made by the learned judge in the aforesaid order considering the case of the I party as well as the II party with regard to the documents produced before them do not call for any further discussion by this tribunal. Very same reasonings hold good in this case also and therefore they need not be once again repeated by this tribunal to reject the case put forth by the claimant. One more important thing rather the finding recorded by CAT in this order on its last page at Para 8 reads as follows :

"Accordingly, there was no master and servant relationship between CFTRI and the applicant from May 1979 to May 1988 and if at all the applicant has aggrieved by the termination of her service by the Mary Calvert Hospital she has to approach the proper forum in the redressal of her grievances".

14. It is interesting to note that though the I Party approached the proper forum as advised by the said tribunal but failed to redress her grievances against the proper party. Moreover, as long as aforesaid order of the CAT stands in tact finding having been given on the merits of the case and the aforesaid order not being challenged by the I party before the proper forum, as argued for the Management, a dispute once again involving similar set of facts and points of law cannot be maintained before this tribunal.

15. Therefore, in the light of the above, the reference, accordingly, is answered in the Negative. Since the matter is being disposed of on merits of the case, it is not necessary for this tribunal to give any finding separately on the contentions raised by the II party that it is not an industry and the I party is not a workman as defined under provisions of ID Act. Hence, the following award :

#### ORDER

Reference is dismissed. No cost.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 28th May 2004)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 7 जून, 2004

का. आ. 1517.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ राजस्थान लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अग्रिम में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण से, II नई दिल्ली के पंचाट (संदर्भ संख्या आई.डी. 159/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-6-04 को प्राप्त हुआ था।

[सं. एल-12012/180/96-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th June, 2004

S.O. 1517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. ID-159/97) of the Central Government Industrial Tribunal/Labour Court, No. II New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Rajasthan Limited and their workman, which was received by the Central Government on 7-6-04.

[No. L-12012/180/96-IR (B-I)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

**BEFORE THE PRESIDING OFFICER, CENTRAL  
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT-II, RAJENDRA BHAWAN,  
GROUND FLOOR, RAJENDRA PLACE, NEW DELHI**

Presiding Officer : R.N. RAI

I.D. No. 159/97

In the matter of:—

AJIT KUMAR JHA

*Versus*

BANK OF RAJASTHAN LIMITED

#### AWARD

The Ministry of Labour by its letter No. L-12012/180/96-IR(B.I) dt. 25th September, 1997 has referred the following point for adjudication. The point runs as hereunder:—

“Whether the action of the management of Bank of Rajasthan Limited in terminating the services of the workman Shri Ajit Kumar Jha, Peon w.e.f. 4-1-1996 is fair, justified and legal. If not, what relief the workman is entitled to?”

The claimant has filed statement of claim. In his statement of claim, he has stated that he had been in permanent and continuous employment of the aforesaid

management since July, 1994 against a permanent post of Peon and his last drawn wages were Rs. 1200 per month.

That the aforesaid management had been indulging in unfair labour practice since very beginning. The management used to pay wages @ Rs. 1200 per month which were less than the minimum wages as prescribed by the appropriate Government for the category of a Peon. The management with some pre-determined motives and malicious designs neither issued any appointment letter to the workman nor used to maintain any service record in order to grab his service and benefits.

That on 4th of January, 1996, when the workman demanded his earned wages alongwith the aforesaid legal demands, the management got infuriated and terminated his services without assigning any reason or justification and also without giving him anything in writing.

That the termination in the present case is based on victimization and unfair labour practice as the workman had been demanding legal facilities from the management but the management instead of considering the same effected the termination in retaliation.

The management has filed written statement. In the written statement, it has been stated that the claimant Shri Ajit Kumar Jha is neither the workman of the management nor there is any industrial dispute within the purview/meaning of Industrial Dispute Act, 1947, in this case. Shri Jha has not produced any evidence showing his alleged employment like any appointment letter, confirmation or termination order or any other proof of salary, scale, wages, attendance or terms of employment. He has not even mentioned the exact date of his appointment because he was never been appointed in the bank.

It has been further stated that the union has never espoused the cause of Shri Jha and any ID between the Bank and their workman, as stated in reference order, does not exist at all as there is no commonality of interest. Further the Shoshit Mazdoor Sangathan referred by Mr. Jha has no locus, nexus and nothing to do with Bank or the Bank employees or their any interest whatsoever, being an outsider and unconnected body.

The workman has filed rejoinder. In his rejoinder, he has stated that the claimant is a workman as defined under Section 2(s) of the Industrial Disputes Act, 1947, and there is an industrial dispute between the parties as defined under Section 2A of the Industrial Disputes Act. The management did not issue any appointment letter but his signatures were taken by the management.

Heard arguments from both the sides and perused the papers on the record. The learned counsel for the workman stated that the work of the peon was taken from him but payment was made to him in cash. The workman has himself accepted in his cross-examination that the management used to take his signatures. He did not put his signatures in the register. Photocopy of which has



been filed in this case. He was being paid in cash. He has no written orders because he was never given in writing. He was the member of Shoshit Mazdoor Sangathan. He has further stated that no employee of the Bank of Rajasthan is the member of the said union. As such, according to the affidavit and cross-examination of the workman, it becomes quite clear that Soshit Mazdoor Sangathan is not the union of the respondent management as no employee of the respondent management is the member of the said union.

It was further argued by the management that the work was taken only once by the Bank when the regular peon was not available. When a regular sweeper was not available, he was searched and the work was taken from him. Whenever the employees of the Bank were sent, his services were taken so it is the admission of the management that his services for some time have been taken but it is the case of the workman that he was paid in cash so he was paid for his work done during the absence of the workman of the bank. He was not a daily rated or casual employee of the Bank and he has not rendered the services for more than 240 days and he has not been paid monthly Rs. 1200/-. In this case, the workman had not filed even a single paper which may indicate period of his service.

My attention was drawn to 1985 ILLJ-SC-419. It has been decided that the claimant was never in service of the management, 25(f) is not attracted.

In the facts and circumstances of the case, since the workman has not proved that he has worked for 240 days, he is not entitled to get any relief as prayed for.

The award is replied thus :—

The action of the management of Bank of Rajasthan Limited in terminating the services of the workman Shri Ajit Kumar Jha, Peon w.e.f. 4-1-1996 is fair, justified and legal. The workman is not entitled to get any relief.

Dated : 03-06-2004

R.N. RAI, Presiding Officer

नई दिल्ली, 15 जून, 2004

**का. आ. 1518.**—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और ऐसी अन्य) के प्रसंस्करण एवं उत्पादन में लगे उद्योगों में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 29 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/2/2003-आई.आर. (पी.एल.)]

जे.पी. पति, संयुक्त सचिव

New Delhi, the 15th June, 2004

**S.O. 1518.**—Whereas the Central Government is satisfied that the public interest required that the services in the Processing or Production of Fuel Gases (Coal Gas, Natural Gas & the like) which is covered by item 29 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purpose of the said Act for a period of six months.

[No. S-11017/2/2003-IR (PL)]

J.P. PATI, Jt. Secy.

नई दिल्ली, 17 जून, 2004

**का. आ. 1519.**—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि कोयला उद्योगों में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 04 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/2/97-आई.आर. (पी.एल.)]

जे.पी. पति, संयुक्त सचिव

New Delhi, the 17th June, 2004

**S.O. 1519.**—Whereas the Central Government is satisfied that the public interest required that the services in the Coal Industry which is covered by item 04 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purpose of the said Act for a period of six months.

[No. S-11017/2/97-IR (PL)]

J.P. PATI, Jt. Secy.

नई दिल्ली, 17 जून, 2004

New Delhi, the 17th June, 2004

क्रा. अ. 1520.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि प्रतिभूति मुद्रणालय, हैदराबाद में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 12 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोग सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोग सेवा घोषित करती है।

[सं. एस-11017/8/97-आई.आर. (पी.एल.)]

जे.पी. पति, संयुक्त सचिव

**S.O. 1520:—**Whereas the Central Government is satisfied that the public interest required that the services in the Security Printing Press, Hyderabad which is covered by item 12 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purpose of the said Act for a period of six months.

[No. S-11017/8/97-IR (PL)]

J. P. PATI, Jt. Secy.